

It is the first time in history of criminology that the independent direction in this science is substantiated – the international criminology. The corresponding conclusions of the famous international law scientist V.F.Antypenko are based on the assessment of the world crisis processes determining the criminalization of the international life and the inability of law to react in adequate way because of its disorientation concerning the subject of regulation. The author proved that basing on the traditional scientific instruments, formed taking into consideration the needs of the national criminal law, criminology appeared to be unable to cover with its research attention the global factors causing the criminogenity in the international interactions. The key source for the systemic scientific argumentation in this work is the research material concerning the international legal mechanisms of fighting terrorism, which shows the high level of criminalization of the international environment. The special subject and the system of the specific methods are determined and form the independent international direction in criminological science.

International criminology



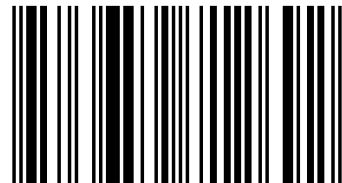
Vladimir Antypenko

International criminology

The experience of the research of terrorism



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Dear readers!

This book is a truly collective work, though on the title of the book the only author is indicated.

The idea of the separation of the international branch in criminology science has been discussed by the Ukrainian scientists for many years. Both international lawyers and criminologists have shown their interest to this problem despite of the difference in viewpoints and approaches. Among criminologists A.N. Kostenko and V.N. Drjomin should be mentioned. Actually their expertness and deep knowledge of the subject of study predetermined the importance of the key provisions of this work.

The viewpoints of the international law scientists, among which the active position of the noted national international criminology specialist N.A. Zelinska should be mentioned, reflect the general trend to the shift of the epicenter of the legal counteraction to criminality towards the international sphere.

Since it goes about the optimization of the structure of the recognized branch of science which criminology is, the problem has not been left without the attention of the head of the national science of science B.A. Malyskyi and noted specialist in this sphere V.I. Onoprienko. The assessments and recommendations of these scientists assisted in the correct arrangement of the material developed and helped to form it from the viewpoint of the scientific results.

In the process of the development of the monography the confidence in the correctness of the direction of the scientific research chosen and of the forming of the basis of arguments was supported by the famous Russian criminology scientist V.V. Luneev. In his works he has been persistently pointing for a long time on the special character of formation of the causes of international criminality and on the peculiar features of the methodology of its determination.

Let me express the special gratitude to my good friend and teacher the academician A.S. Onyshchenko. It may be said without exaggeration that

this work was done due to the active participation of this person. This eminent humanist of the modern Ukraine determined the philosophical basis of the monography, the systematic vision of the problem of the security of a person and a state in the modern world.

The scientific discussion on the problems of the international criminology that took place in the National Aviation University of Ukraine, the National University Odesa Law Academy and, certainly, in the V.M. Koretskyi Institute of State and Law of the National Academy of Sciences of Ukraine appeared to be successful.

The main provisions of the monography have been verified and specified in the process of teaching of the special educational course on the Master's Degree programme of the Institute of the International Relations of the National Aviation University of Ukraine. The developments of the young scientists and postgraduate students appeared to be very helpful. Between them let me mention my students V. Kubalskyi, I. Hromivchuk and N. Panskyi.

The monography was created at the International Law Department of the Institute and embodies the common efforts and contribution of every member of this friendly creative collective.

T.R. Korotkyi also deserves dratitute since he actively participated in the scientific polemics and took the responsibilities concerning the publishing of the monography.

I hope that the mentioned collective efforts only lay the basis for the formation of the new criminology, the one corresponding to the establishing of the new social integrity – the international society.

Introduction

A fair arrangement of life on our planet, a fair arrangement of life of a society, a fair arrangement of life of a certain person is, perhaps, the key and the most desired to understanding formula of the human existence on the Earth. The sources of the concept of justice go deep into the ideas about revenge and in the notions of the Old Testament. According to them, the sense of justice lies in protecting the weak from the strong and in preventing the strong from the unfair actions.

In a series “The Great Ideas” published in 1952 in Great Britain more than thousand various definitions of the concept “justice” is listed. In the opinion of a well-known American scientist V. Fox, the most acceptable definition of justice from this list is the ancient Greek definition that was formulated simultaneously with the nascence of democracy: justice is the overcoming of force with wisdom.

It is believed, that the meaning and the conditions of achievement of justice are surprisingly simple: do good and the world will become kinder. The value of an action is glorified in all religions of the world and in all cultures. The rescue lies in actions. This divine truth shows mankind the way to the fair arrangement of life. It is the action of a human that should have the higher price, but not do the gold or the wealth.

It is likely that theoretically there exists a certain complex of moral values which would be shared by all the representatives of mankind without exception. Theoretically it is also possible to construct a fair society globally by synthesis of the core values of the West and the East. However, the reality specifies another. There are destructive processes easily seen in the socio-economic life of the international community specifying the irreversible crisis of the world order and calling into question the lightest hopes of the mankind. And we make sure once again that the actions of a person, in fact, define a content of life at any level up to the characteristics of the modern economic universe. Finally that social and economic setup which is selected by a society in search of a fair

arrangement of its life is not so important. The present generations have become witnesses of how the altruistic socialist system of a public life discredited itself as a whole as a result of the people's actions. "Innocently injured" socialism is, in fact, thrown out on a roadside of the history. And it was still Aristotle who may rightfully be considered as its founder.

The collapse of the world order system which is capitalist in its general content may be seen. The reason is the same: it is subjective. If the immense avidity of people (first of all of those who indefatigably assure God of their humility and obedience) does not interfere with the world order system, the capitalist system with the idea of healthy and fair economic competitiveness laying in its basis evidently could also suit the mankind. Such system of the public arrangement as a good thought about the maximal realization of the human capacities and possibilities, based on meritocracy, is also in many respects based on the views of Aristotle, Platon and many other educators. However still the actions of people, vulgarizing and emasculating their essence, have been uncontrolledly leading the society to collapse.

We think, this was one of the reasons on which the well-known researcher of a human society Arnold Toynbee in his old age concentrated his attention on a human soul in the search of a social optimum. More precisely, together with his Japanese colleague Daisaku Ikeda the scientist saw a possibility of a fair social arrangement through the realization of revolution in a human's soul, its clarification by religion.

It is difficult to deny the effectiveness of this way, but, accepting it, it is necessary to consider another things. Certain conditions, rules of existence of a human society are necessary nevertheless. Freedom and equality are born not from chaos, but from the elementary orderliness, that should in ideal be understood as the regulated representative (but not an unrestricted straight) democracy.

Sokrat called to see in justice the possibility of rewarding everyone according to his deserts. However Platon stated that if power exists, justice is on the side of the strong one. This idea was shared by N. Makiavelli and T. Gobbs. But if justice is "distributed" or "measured out", the idea of

retribution is generated. Therefore democracy should not be purified and given the meaning, as though in its conditions the equal treatment to all members of society and the defense of the weak from the strong is carried out and that it is acceptable to the exploited. For the countries presenting the standards of the western democracy, such democratic modes are typical which Aristotle named mixed. The elective government is peculiar to them, but also there are constitutional laws and rights, independent judicial power, strong political parties, churches, firms, private associations, professional associations in them.

The efficiency of such a system is provided greatly with the actions of the undemocratic institutions which, in fact, predict the acts of people. They moderate public passions, teach citizens, carry out managing of democracy and with this guarantee freedom and equality. In other words, a right moves into first place and is the basic mean of the self-control and balance, which it is necessary to perceive as “wise limitations, making people free”¹. At the same time justice implies the introduction of the moral in the law.

But, to all appearances, equality and justice may come in human society not only through welfare and reconciliation or as the realized necessity (right). Moreover, it becomes apparent to us through violence, blood and human victims.

Apparently, in order to be reconciled, a man and a society must cognize a horror of the consequences of imperious violence. But what must be the kind of measure, the limit of concern and even fear with which the harmful passions (avidity, usury, envy etc.) lose their priority and qualities greatly determining the content of human public relations and, eventually, the value of human life?

Historical experience shows that wars and their consequences influenced restrictively the erosion of public morality, and that found embodiment and in law.

The altruistic spirit of League of Nations, and especially of system of the United Nations Organization with its strongly attached by justice

¹ One of the original postulates of the Harvard School of Law (author's note).

Charter, showed that the most bloody and cruel battles for a property and domination (such were the First and Second World Wars) push a man most appreciably to equality and, consequently, to justice.

It seems that that higher limit, the limit of awareness of the end, of the universal crash in front of which human passions grow dim and lose sense, finally doing society unproductive, has not come yet. However, in society fright and disturbance continue to grow. This is distinctly seen in inconstancy of the so-called world elite and its nonpermanent organs, such as various meetings in Davose, summits of G8, G20, G30, etc.

Judging from the order-papers of these forums, it is possible to understand, from where that apocalyptic threat comes from, which is able to level the value of power, riches, might, superiority, and to change in the human souls and minds the picture of these concepts.

It may be stated with all evidence, that this artificial threat is made of the complex of problems, originated from an infinite avidity, inequality and injustice, among which the destruction of environment, nuclear and other types of devastating weapon, terrorism are clearly seen.

Pointing on an avidity, inequality and injustice as on mover of threats has a key value here. Because the possession of nuclear weapon itself within the bounds of the developed states club though still makes a danger, this danger is, however, controlled and managed. The real danger lies in this club's loss of the monopoly of control above a nuclear weapon.

Aiming to compensate inequality, the countries, deprived by the financial civilization (determining, in fact, the content of existing world order) of the possibilities to technological development, turn to the accessible for them production of nuclear weapon, promising comparability in intergovernmental relations, out of the generally accepted economic criteria.

It remains only to guess to what things such an off-system access to stormily developing technologies of representatives of marginal part of international society may lead, for instance, in a cyberspace with its prospects of influence on the state of noosphere.

In the international relations the asymmetric principles and approaches, opening a way to comparableness, equality have been greatly distributed.

The special attention in this sense is payed to terrorism. Its role in the modern public relations is ambiguous. Undoubtedly, terrorism as a variety of the armed confrontation is dangerous and its «down-to-earth» effect on society is obvious. By its cruelty terrorism expressively shows, that human society has closely come to the real danger of self-destruction. But what is more important, terrorism with its action and its essence means the beginning of disintegration of the certain system of co-ordinates, destruction of that foundation on which the society has been basing for thousands of years. Terrorism denies the meaningfulness of the factor of superiority, because the usual criteria which determine a hierarchy in society, domination above other lose a monopoly.

From such a revolutionary function of terrorism the importance of cognition of its origin and content follows. Since the mechanisms constituing terrorism are of the criminal character, the study of it should be carried out within the framework of criminology, which in the field of cognition of terrorism is distinctly seen first of all with its specific methodology. And it has an explanation.

The cognition of determination of terrorism is the learning of the special system of public relations, being based on various values, but, nevertheless, forming equality or, at least, comparability in the mutual estimations of meaningfulness of subjects of these relations.

The research of the genesis of terrorism gives the possibility to see the drawbacks of the criminology itself. Among them the inability to estimate and argue the adequacy of the criminal contribution to difficult socially meaningful crimes of their different subjects is clearly seen. These are the specific possibilities of research of terrorism that allow learning the “white-collar” mechanisms of criminal behaviour in international relations.

This research is devoted to the perfection of content of criminology itself, operating in such an actual international sphere, as a fight against terrorism, and the name of the research eloquently says about it. With its

content the book aims to lead the interested reader to the belief about the important role of terrorism in the development of the international society and availability of necessity and grounds for the selection of the international direction of criminology studying terrorism.

But the most essential thing is, perhaps, that the non-standard example of the specificity of criminology of counterterrorist sphere gives possibility of argumentation of expedience of branching (within the framework of criminology) of the international criminology and the presence of important grounds for this. The book consists of five sections, the first three of which – “The Science Criminology and the International Legal Sphere”, “The International Legal Constituent of the Basic Criminological Theories”, “The International Content in the Estimations of Criminality, its Causality and Determination” – are based on the materials of the course of the general criminology. For the aims of the monography the method of comparative estimation of the universally recognized regulations of criminology in the basic spheres of its scientific attention on a background of the displacement of the epicentre of criminality in the international relations is chosen. The special attention here was payed to the creation of the system of arguments, grounding the irregularity of genesis and the criminal mechanism of terrorism, its special place and role in the international criminality, influence on public relations.

The demonstration of the incomplete accordance of these (named «traditional» in the book) postulates of criminology, terms of their origin to the realities of international life, blanks in the criminology substantiation of the phenomenon of terrorism made basic maintenance of this precessing the kernel of the work block from three sections.

Accordingly, with the help of the researches made in the first section it was assumed to attain understanding to what extent the maintenance of criminology science responds to the specificity and scale of the international criminality. It is determined as a result that the dynamics of displacement of the scientific efforts in criminology is incomparable with the intensity of global tendencies of influence on the international criminality. Criminology science not completely envelops the

determination and causality of international criminality, and that negatively affects purposefulness and efficiency of the international legal norms. The chain of failings in the system of legal counteraction of international criminality described in the section has another, than in a national criminal law, character, scales and formation dynamics.

On this basis, the system reorganization of the scientific search, conditioned with the specificity of the science subject, pulls out the necessity of involving of specific scientific methods and instruments. In other words, there is a problem of selection within the framework of criminology science of the independent direction with the purpose of determination, concentration and realization of the scientific facilities and methods which would answer a specificity and complexity of genesis of international criminality.

The limits of independence are conditioned, firstly, by the inviolability of mission of criminology on the exposure of nature of criminality and its prevention. Secondly, they are conditioned by inviolability of the basic principles of criminology, concerning intersectoral and interdisciplinary approaches, using except for legal also political, socio-economic and other mechanisms of affecting criminality. Thirdly, they are conditioned by a relation and intercommunication of the international and national legal systems, and also of international criminal law and intra-national criminal law.

As a result of the research, conducted in the second section, the understanding was formed that criminology as science and as a practical constituent of sphere of perfection of fight against criminality has rich history full of prominent researches and discoveries.

However, the scientific achievements and practical works of criminology are not fully realized, especially in the international sphere. This leads to the narrowing of the legal facilities and declining of the efficiency of their influence on criminality.

It is also obvious that the development of criminology in its historical aspect was conditioned mainly with the necessities of fight against criminality within the limits of national-state society. With the beginning of

the period of the intensive internationalization of life (second half of XX – beginning of XXI cc.) criminology appeared to be not able to adapt itself to the system of the new socio-economic co-ordinates, and also of the political and legal categories, determining the causality of criminality in its international dimension. Criminology has not paid proper attention to the reverse influence of the international in their essence crimes on the condition of criminality in states. Consequently, for the improving of the situation it must study the development and formation of the new scientific methods, able to master another – «international» - nature of criminality and arm itself with the proper scientific tool.

However, a statement of the question about the other criminology, its new industry is inappropriate. Because criminality, even in its international dimension, stipulated and produced by the states, comes finally from a man, concentrates around interests, reasons, senses, passions and emotions of a man.

This general basis on the whole explains that moderation in determination of border of delimitation of criminology science of national and international legal systems, which is outlined as the separate independent direction of the single science criminology – international criminology.

The study of crime, criminality, its determination and causality (the third section) has shown that criminology not to a full degree determines its tasks and possibilities of their decision in an international legal sphere.

In the sphere of criminology science some problems, the decision of which would positively affect the quality of counteraction to the international crimes, still remain without proper attention, namely:

- during the research of motivation the influential factor of state subjectivity of international criminality, and in it influence of «ruling class», is poorly taken into account;

- the system differentiated basis of criminology researches of determination of international criminality is not created, that does not allow to go deeper in the key problems of world development in the complete criminological cycle of cognition;

– in spite of the criminal priority of some international crimes and obvious feature of their operating conditions, the content of the system of international criminality as antisystem on a background of the international public system and the system of international law has not been determined. This hinders the development of the proper criminological technique and methodology, able to react on the international specificity of criminality;

– the proper attention has not been paid to a point of view on the international society as on the single (strategic) determinant of international criminality. Its separation in an independent scientific criminological problem would provide a basis for the cognition of the system of international criminality. Effective criminology in the field of international criminality can not exist without determination of content and methodization of those negative social developments of international life, on the edge of which the international crimes appear and function;

– the problem of guilty violation of criminal prohibition in an international criminal law should be studied deeply. As guiltiness of such violation, and consequently, the higher degree of public danger in comparison to another rejections, comes here from the state as basic international legal subject, there is the reasonability of research of the problem of criminal responsibility of state in the modern conditions of internationalization of public life.

The research of the grounds for determination of the special character of criminology in the field of international criminality, which is made in the fourth section «Criminology in the Sphere of International Criminality», is based on conclusions, formed in a result of estimation of concerning of existent criminology and its possibilities to the indicated sphere, got in three previous sections.

It is obvious, that in regard to the international law criminology has a certain specificity. This specificity is present, foremost, in the subject of science, since the international crimes have a primary international origin, international scales and international theater of actions.

Accordingly the international criminality has specific features, conditioned by the triune nature of its constituents: actually international

crimes, intra-national crimes with an international element, and also actually intra-national crimes (as a base factor).

From this another complex of specific features of international criminology follows. It is related to the need in the specific methods of research and scientific tools on the ground of involving in the possibilities of the neighboring with law subjects and sciences with international character.

The determination and causality of international criminality has certain specificity too. They are formed in the area of global processes and phenomena and are predetermined by the defects of world order, which have been becoming more apparent on the modern active stage of globalization.

The anticipatory function of international criminology also possess specific features, because the results of the criminology researches in an international sphere have mainly global meaningfulness. The mechanisms of their embodiment may work at favourable geopolitical conditions and require the concordance of wills and political decisions of most states, first of all the influential ones.

Consequently, the possibilities of reacting on the causality of criminality are different.

In the conditions of hierarchical construction of life activity of a state and its law the causality of criminality is removed by the complex of legal, economic, social, educational and other measures (within the framework, for example, of national programs). The success of their realization is predetermined by the clearness of state vertical line of power, distributing of the proper functions between its branches, interconsistency and harmonization of actions of responsible organs and persons.

The relations of international life and their regulators, in particular law, are based on co-ordinating principles of relations between its subjects. That's why even the clear establishment of causes of international criminality does not guarantee here the voluntarily consent of a state to identify them exactly with its foreign policy and economic activity, with specific decisions and measures on their realization. It is necessary to

mention once again that the question is mainly about the large, influential states.

The causality of international criminality is often related to the superprofits of multinational corporations and states, therefore its partial confession does not mean substantial measures on a removal.

That's why a compensatory factor in relation to the lack of hierarchicalness in the field of international criminal law for criminology can be a ground of criminalization of causes of international criminality within the framework of the proper compositions of crimes as their elements.

All-round research of the content of science of criminology, estimation of its possibilities in cognition of terrorism on a background of the renewed vision of criminal mechanism of terrorism provided a basis for theoretical innovations in the ground of separation in criminology of the independent scientific direction – within the limits of international criminology of terrorism. The fifth, key section of the monography is devoted to this – «International Criminology of Terrorism as Independent Direction in Criminology».

The basic idea of the separation of terrorism in international criminology is the fact that this international crime appeared and spread to the level of the planetary threat as a result of the substantial deformations in political and economic development of international society. Terrorism is the social product of the steady crisis phenomena from which the international society suffer, and in this connection terrorism gained the forms of global terrorist conflict. The terroristic method of fight as a constituent of terrorism is determined with political conditions and socio-economic polarization of society.

The revolutionary character of terrorist acts lies in the fact that the systematic application of terrorist acts (as a terrorist method of actions) brings in basic changes in the system of priorities and values in mutual relations between the states, social groups and civilizations. Every terrorist act, being in fact an ordinary criminal act, is able, taking into account its asymmetric essence, to directly personify the political opposing of

intergovernmental or geopolitical level. Therefore considerably extending the subject-objective relations of crime, a terrorist act simultaneously creates terms for transformation of these opposing relations in the format of the difficult single subject of international delict of terrorism. On formation of criminological approaches and system of specific methods here substantially affects a fact that the meaningfulness of criterion of war-economy potential of the state is essentially leveled.

The tendency in international law to absolutizing of criminality of terrorist acts that is seen nowadays, throwing off the legal field the motivation of conduct of actually «terrorist» party of conflict, is harmful, as it raises the level of conflict. The inattention to socio-economic determinants of terrorism on the whole is also injurious.

Therefore with its essence and purpose international criminology of terrorism is called to result the system of arguments, conclusions and recommendations in relation to the necessity and inevitability of innovations in the world structure, and possibly, its substantial changes. The specificity of international criminology in this sphere is not limited with similar globalness of the research approaches. Probing the genesis of terrorist criminality, it, unlike the «general» criminology, must concentrate its efforts not only on the search of ways and methods of fight against terrorism. Estimating the displays of terrorism as a social signal of extreme form, it would create research possibilities for determination of terms of global social consensus and development of international criminal and legal mechanisms of providing of this process.

Thus, the specificity of scientific direction which is made up by international criminology of terrorism is characterized by multidimensionality and variety of levels of display of this international crime. Learning the phenomenon of terrorism, uniting its extraordinary danger and at the same time fateful for an international society role, international criminology of terrorism must give grounds for a necessity and motive to realization of the specialized fundamental researches in such meaningful spheres of science, as geopolitics, geoeconomics,

conflictology, sociology of international relations, study of culture, military science and other.

Still mutual relations between criminology and indicated sciences following a chart a «customer-contractor» within the framework of international criminology of terrorism can not be effective, because of the lack of mobility, following of aim and subjectness of charts action. However much it specifies on the signs of absorption of the allied subjects criminology. Thus mutual relations between criminology and indicated sciences on a chart a «customer-contractor» within the framework of international criminology of terrorism can not be effective, as mobility failing, celepodchinennosti and subjectness of its (charts) action. However it doesn't mean that criminology absorbs these subjects. On the contrary, in antiterroristic criminology such sciences gain their life and new political and social meaningfulness. An outgoing from terrorism planetary threat in this case specifies the necessity in reconstruction of the scientific priorities, pulling out a former «customer» on the role of mover and co-ordinator, not trenching upon the authority and unique in cognition of terrorism role of each separate science.

Foregoing facts characterize the availability of the system of methods of international criminology of terrorism.

The available scientific material, concerning the genesis of terrorism, law-making and law enforcement practices of fighting it, give grounds to assert that around the problem of cognition of terrorism the group of specific methods of finding out the essence of this international crime appears, of reasons of its origin and escalation, and also ways of removal it from international life.

These are, first of all, methods, the scientific tool of which operates in the specific sphere of public relations, determined by the presence of the armed violence in its different forms: conflictological method, method of the military estimation of terrorism, method of terrorist asymmetry and others.

The other group is made of methods, the international character and the branch orientation of which are determined by the maintenance of

sciences on the base of which (taking into account the necessity of cognition of terrorism) they are formed: geopolitical, geoeconomical, international-sociological, culturological and other. These methods open wide possibilities of cognition of determination of terrorism, its causes, taking into account the international essence of this criminal phenomenon.

The specific character of foregoing methods, performing a uniting systemizing role, creates possibilities of real cognition of terrorism in all variety of this phenomenon. This is important because earlier ignoring such system-methodological (international) approach and preference, given to traditional criminology instruments at terrorism research, which badly combine themselves with the global essence of this crime, resulted in distortion of the article of the science, and consequently, of the article of the legal regulation.

The system character of group of methods specified for the needs of research of terrorism is determined by various correlative connections, inherent to any system.

It is especially important, that the interdisciplinary approach finds embodiment in a conflictological (key) method, having sociological, economic, culturological, political, military and other descriptions. It is productive in science in general. Being one of the basic characteristic features of criminology in general, this approach, and more precisely, the need in its application concerning terrorism, taking into account the specific format of the attracted sciences, is another foundation for assertions about the availability of separate criminology direction – international criminology of terrorism.

The estimation of reasonability of such separation is not limited by reasons of ordering of process of scientific creation and systematization of possibilities of embodiment in legislation and law enforcement practice of its results. These general key points of development of criminology are in this case specified by primary objective: making conditions of use of full value of the correlation potential and international possibilities of the indicated methods in harmony with their complex application.

It is that organizational association of methods in a criminology continuum which allows estimating the article of research in its veritable maintenance.

Organization within the framework of independent direction of criminology hinders «dragging» apart the understanding of terrorism (as the article of research) on the elements of fragmentary perception of its separate features, fixed in the specific disjoined areas of scientific knowledge.

In the domination of juridical and dogmatic approach and under the influence of political reasonability this results in the distorted picture of determination of terrorism and confuses an international law in fight against it. An obstacle on the way to this the international criminology of terrorism arise.

Part 1.

THE SCIENCE OF CRIMINOLOGY AND THE INTERNATIONAL LEGAL SPHERE²

1.1. THE CONCEPT OF CRIMINOLOGY

The life of a human society has been characterized for a long time not only (and not so much) by consent and mutual understanding, but appreciably by the presence at it of contradictions and conflicts.

Because of such contradictions and conflicts the special type of social activity – crime activity – also was formed.

In process of internationalization of a life, the occurrence of problems, which are inherent to the international community as to social megaintegrity, the international mechanisms of criminality began to be formed.

So, the global terrorist conflict as the product of geopolitical inconsistency in the organization of modern world structure, formed a basis for the global socially-legal phenomenon (with a sign of minus) of terrorism, qualified in international law as a crime.

The criminality became the subject of attention of legal sciences. First of all, this is criminal law, law of criminal procedure, criminal executive law – they have defined the order of struggle against crimes. The criminology science, medicine, legal psychology, etc. have involved the scientific means and methods in struggle against criminality.

² The general theoretical basis of criminology in this part are based on the materials: Криминология : учеб. для юрид. вузов / под общ. ред. д. ю. н., проф. А. И. Долговой. – М. : Издат. группа НОРМА-ИНФРА-М, 1999. – 784 с.; Криминология / под ред. В. Н. Кудрявцева, В. Е. Эминова. – 3-е изд., перераб. и доп. – М. : Юрист, 2007. – 743 с.; Фокс, В. Введение в криминологию : пер. с англ. / В. Фокс. – М. : Прогресс, 1985. – 311 с.; and others.

However, none of the mentioned or other sciences can cover a problem of criminality as a whole. But they have created the conditions for the appearance of a special science – criminology.

This science studies both criminality as a whole, and its separate directions, types, first of all those which in their content and scales form the public phenomenon connected with other social phenomena, having laws of appearance, existence and progress, attracting the necessity of the various specific forms of fighting it.

«Criminology» literary means a science, doctrine (logos – from Greek) about crimes (crimen – from Latin). It is a comparatively new developing science which in such a quality was offered for the first time by the Italian lawyers R. Garofalo and P. Pokinardo. The book entitled «Criminology» they published in 1885.

Consequently, criminology may be defined as a general theoretical science about criminality, its reasons and conditions, those persons who make crimes, as well as about methods of fighting against criminality and its prevention.

Criminology is closely connected with the other sciences. Using their possibilities, criminology comes across lots of problems which, at first sight, are distant from criminality directly. In the international life it is shown in a greater degree. The success in research of the international crimes is caused, first of all, by the fact, to which degree criminology is limited by the criminal and criminally-legal criteria in an assessment of certain acts, events, phenomena, and turns to the other, related with law sciences. Especially this concerns terrorism, as we shall make sure in the subsequent, political, social and economic recognition of essence of which is very important for definition of the adequate norms of legal counteraction to this crime.

At the same time it is not worth taking a great interest in unreasonably spread treatment of criminology, remembering, that the criminality (and terrorism in particular), being the social phenomenon, should be limited to frameworks of law. And this may be effective only when it is formulated and confirmed on the basis of qualitative criminology research.

Thus, the subject of science of criminology is the phenomenon (criminality) itself in unity and variety of its essence, and also those factors which are directly connected with it.

It is still important to mention that international criminality should not be considered simplifiedly as ordinary criminality, carried in the system of co-ordinates of international life. As a subject of study of criminology, international criminality is provided with the other qualities, conditioned by the special nature of their origin.

The criminal motivation and psychical attitude toward an international crime and, consequently, towards the international criminality as to the social phenomenon, are formed not only through the perception (senses) of a man (individual), but also through the perception of a state and society which he represents. The state incarnates the group will of certain nation (nations), and the existence of a nation does not depend on the will of an individual even in those cases, when the individual is a representative of a state. In addition, international crimes, committed even by individuals, do not have and can not have the primary domestic meaning.

1.2. THE SUBJECT OF CRIMINOLOGY

Criminology is an independent social and legal science. Its subject includes the criminality, its nature, patterns and forms.

In general, notion of criminality as the main component of the subject of criminology covers set of crimes, considered as the real facts of social reality, but not as the legal constructions (e.g. corpus delicti).

As defined in the literature, criminality is a form of social behavior of people, which disrupts the normal functioning of a social organism. In contrast to amoral or delinquent behavior, it is the most dangerous [3, p. 17].

Without denying this fact, as one of basic for criminology one should also remember that "the subjects of legal relations resulting from the international legal responsibility are and are able to be States and other

subjects of international law. The subjects of these relations may also be physical persons having committed crimes against humanity" [4, p. 40].

Social behavior of people is really an important part of the subject of criminology. Being formed into State society, individuals form a new social "unit" with other qualities (collective psychology, decision-making mechanism and so on). Therefore, it becomes obvious that international criminality, where the central subject of responsibility is a state, has its own specific characteristics and they can not remain outside the attention of criminology.

Criminality, including international, is not a simple sum of the committed crimes, but a phenomenon, which characteristics are qualitatively different from individual crimes and which has its own regularities. At the same time, without the combination of offenses this socio-legal phenomenon can not exist.

The objective nature of crime as a dangerous phenomenon is corrected by subjective approach of the legislator. At the same time criminology does not adequately address the fact that the degree of subjectivity of the international "legislator" and its content has different, specific character. The difference is determined by the fact that the role of the legislator in international law is performed by its subjects, which outside of the collective will of the community of states can also determine for itself criminality of any conduct or action. As a consequence, subjective circumstances in international law have more significant effect on the characteristics of criminality than it occurs in domestic law.

To assess the criminality one should avoid extremes, that is strictly social or, to the contrary, highly juridical approach. Highly juridical approach can hinder studying the essence of criminality. This is especially true for the international law, in which, firstly, the scope of the criminality is less clearly defined than in the national law. Criminal nature of the conduct of State still remains a matter of debate. Secondly, the primary nature of a number of norms of international law connected with the fact that they came out of international morality, due to political expediency and economic calculations – things ultimately lying in the social plane and

defined by social criteria. Neglecting of this by Criminology of the international legal sphere has a negative impact on the quality and depth of knowledge about criminogenic factors of globalization.

Such kind of a highly juridical approach was sharply criticized by the founder of criminology E. Ferry [6, p. 22].

At the same time ignoring purely legal criteria also may damage, since criminality is formed of particular offences that are qualified by the criminal law.

In general criminality is surely a negative phenomenon, but we should not completely ignore the prominent scientists' opinions, according to which a constructive function of criminality is supposed. The famous French sociologist Emile Durkheim regarded criminality as a normal phenomenon, which social life is impossible without: "We should not deceive ourselves; placing a crime into a number of phenomena of a normal sociology means not just to recognize it as an inevitable phenomenon arising from the uncorrectable corruption of people, but at the same time to say that it is a factor of public health, an integral part of any healthy society" [1, p. 72].

Famous researcher of Sociology of criminality G. Tarde argued that criminality is constantly increasing. Civilization destroys certain kinds of crime, which have already been created by it, and creates the new ones on their place. Tarde proved convincingly that even in the changeable phenomenon regularities can be identified [5, p. 117].

Criminality is diverse in its manifestations, and this makes it difficult for its theoretical understanding and for the practice to struggle against it. It is very important from the criminological point of view, because a simplified assessment of the international criminal mechanism of terrorism, for instance, has as its consequence inadequate international legal norms, which deal with this international crime and, of course, have impact on its efficiency.

Social stratification of society is related to a considerable part of criminality, first of all, to a political one.

In international criminality a similar politicized factor of influence is inherent – a various economic and civilizational level of state and society development.

However, this is not the only specificity of international criminological element which is under the consideration. In the sphere of international criminality this social-class factor has more significant impact. In the international community life it can not be simplified and reduced to a set of social contradictions within states, which form the international community.

Social and class division in conditions of the global capitalist world system gains fetures of a cumulative effect, since the national reasons for such a division are strengthened by the causes of the inter-state and international character.

For the detailed research of this complex multifaceted phenomenon it is extremely necessary to determine the sources of international criminality. But it is impossible to fully study them using only "legal syllogisms". Purposes of criminology here can be achieved using the scientific instrumentation of research, formed by both humanitarian and other related to the law sciences of "global" content.

In general, the phenomenon of international criminality, criminogenical feature of which is determined by the content of the modern world, is the subject of a separate research [see Part 4].

The second component of the subject of Criminology is the origin of crime, its causes, conditions and other determinants. It is important here that various in their sources, content and mechanisms of action determinants of criminality are studied in relation: 1) to the entire set of crimes, 2) to certain kinds of them, 3) to the individual acts of criminal behavior.

Determination and causes of criminality make in general a process of transformation of crimes in society (social determination) and the allocation in this process of the producing, causal relations (causality) [2, p. 23].

The problem of causality is one of the key and important problems of Criminology. Its understanding is largely determined by the philosophical views of the scientist. It is not only theoretical, but also a practical problem, because it creates the ground for struggling against crime not only by using legal methods, but also by using the economic, social and other levers of influence.

There is the materialist conception of crime, in which the objective laws of nature and society are the source of the knowledge of causal relations, and idealist conception (the properties of the human mind are considered as this source). In particular, the representative of the latter conception, the American scientist T. Sellin believes that science refused from the concept of causality and calls to it only for ascertaining the functional relationship between certain elements and facts.

This can hardly be accepted, as since the 70's of the XX century poverty and humiliation, for example, have justly appeared in the UN documents as one of the essential causes of terrorism. Time confirms the validity of this materialist view of causation and its idealistic reflection in people's minds.

Although it is harder to do it in society than in nature, the development of criminology and introduction of its recommendations into practice show the reality of the process. Consequently, the mission of science here is to provide law enforcement agencies with the working method in identifying the causes and circumstances of crimes. The legislator has adopted in domestic legislation the duty of law enforcement agencies to identify the causes and conditions of crimes and to apply measures for their prevention.

Unfortunately, international law lacks of such a clarity. Despite of the other object-subject measurement of international criminality, different scale, mechanisms of its appearance and process, criminological science has not offered any specialized techniques in this field. International crimes (aggression, terrorism, genocide, apartheid, war crimes) are perceived (and often determined) in most cases as a situational reality of an anomalous character. In better case the reasons of the secondary and tertiary orders and

mainly reasons on specific crimes are discussed. But system methodological developments of international criminological nature have not appeared yet.

That is why it is not surprising that there are rules and regulations in international law which put the criminological aspect of the international criminality problem on the second place and sometimes even ignore it. In some cases (for example, in struggle against terrorism) law urges not to pay attention to the arguments, which criminals are guided with, although it is directly related to the causes and conditions of crime.

Thirdly, a personality of the criminal is included in the subject of criminology.

Deeply studying this problem, many scientists came to the conclusions according to which the concept of "criminal personality" was questioned. Instead they offered a more accurate term – "personality of people committing crimes". And that is correct, because, in fact, each person may commit almost any type of crime. The theory of "white-collar criminals" (E. Sutherland, D. Cressey) also indicated on the expediency of replacing the term. In addition, basing on the social and legal nature of criminality, one should remember that the crime concept itself is variable.

The difficulty of researching of the personalities of those committing crimes is determined by a significant social stratification, cultural and civilizational differences between the living conditions of people. That is why such sciences as sociology, economics, cultural studies, psychology and other sciences studying personality cannot be ignored by criminologists.

A personality of a criminal forms a complex legal institute in international law. It includes the international legal personality of a State, its personality according to the qualified composition of international crimes, combined with the personality of individuals representing the state in international relations. A State, as an embodiment of the integrity of its nation, is guided by its own interests and operates under the influence of geopolitical, geo-economic, civilizational, cultural and other global factors.

Criminological research of such a "personality" of a criminal in international criminal law, however, requires a studying of the indicated factors, mechanisms of their relationships and the impact on the criminal behavior of states and individuals.

Fourthly and finally, criminology researches the problem of crime prevention. It is a specific sphere of management and control, which has a multi-level character and aims to struggle crimes primarily through identification and removal of its causes, conditions and other determinants.

The removal of the causes and conditions of international criminality has its own specific features. They are connected mainly with the fact that such causes and conditions, as a rule, make up usually are international offences by themselves (prevention of self-determination in different ways, of economic development of a nation, etc.). But at the same time, staying outside the appropriate criminal law reaction and outside the international legal effect in general, they, in fact, took the form (but not the content) and gained legitimacy as the causes and conditions for the other offences (international crimes) and are often perceived exactly as such. In the other words, remaining illegal acts under international law, together with the other criminogenic factors they may ("masking" under the causes and conditions) simultaneously form dangerous international crimes as an element of the latter.

This also concerns to the causes and conditions which do not constitute offences under international law (for example, undermining the economy of a state by the extortionate terms of trade), but also lead to international crimes (for example, terrorism).

Since in the complex of the other criminogenic factors reasons and conditions turn into the element of a certain international crime, its constituent, the most effective method of their removal is the introduction into concrete formal components of a crime. This has also positive effect on the grounding of international legal qualification of international criminality in general.

If there are no grounds for qualification of an action that is not a crime in a body of international crime, then in connection with the absence of the

vertical hierarchical system of power in international relations states should negotiate about their removal. This means the creation of new norms of international law, and consequently, does not exclude the criminalization of actions of some sort which state can commit.

The understanding of criminality as a phenomenon making up the substance of a society, its reasons outgoing from the conflict of its functioning, personalities of those who were turned into criminals by a society, are that basis on which the theory of prevention of crime is based on.

However, a society should be considered not only as social integrity within the framework of the national state system. In the conditions of life internationalization such features of social integrity are also acquired by an international society. The idea of law for an international society (instead of international law) is thus filled with viability and functionality. Accordingly, the estimation of international criminality as a phenomenon reflecting the essence of international society and conflict taking place in it, has substantial features and specificity. It, in particular, includes knowledge of geopolitical, geoeconomical, geocultural processes and other factors, forming a global conflict, and consequently – international criminality.

That is why the problem of crime prevention should be considered not only on three levels – generally social, special-criminology and individual ones, but also on the international level.

Since criminality is a social phenomenon, it is necessary to be oriented on the complex approach in a struggle against it (both at studying and at preventing). That's why in a generally social sphere struggle against criminality is connected with the using of measures of economic, socially-cultural, educational and, undoubtedly, legal character. Besides the same actions can be simultaneously the subject of study and influence in the different spheres of criminology. For example, for international counterterrorist law it is necessary to examine the principal reasons of terrorism as element of the body of international crime. At the same time they do not fall out the sphere of the international lawmaking, political decisions, international social and economic measures.

Thus, the mission of criminology is to catch generally social processes (their negative display) and to give recommendations concerning spheres and preventing measures. Such recommendations, from the one side, should come out from the real possibilities of a society, and from the another one – be acknowledged by politicians, economists etc. The undoubtful fact is that criminology concentrates more sharply on the negative influence on life of the current economic and social policy, and the recognition of this requires the the substantial and sometimes radical changes in a public life, and that not always coincides with the points of view of governments and social leaders. Especially, when the recognition of problems and the necessity of taking measures go out the limits of jurisdiction and desires of a state and is a subject of decision in the international society.

This also generated the problem of limits of criminological researches which can not pretend on the exhaustive study of problems in another branches of science, but at the same time should expose failings in the certain spheres of life.

In international relations it is connected with influence on global processes, and in some cases there arises a question about viability of the world system on the whole. The scales of such international crimes as aggression and terrorism, with all evidence are correlated with the problem of optimization of the world system. Is criminology really able to master such global problems? It can do it in the field of the international life, only basing on the complex results of groundworks of separate sciences. By generalizing and co-ordinating such branch researches criminology is fully able to expose the criminogenic factors in geopolitical processes, determining by this the presence of criminogenic factors in globalization itself as in a form of global development.

Criminology specified the criminogenic features of the certain phenomena in economy, social sphere and presented the proper recommendations, but a further specification of measures of prevention a crime is a prerogative of the other specific sciences, areas of knowledge, social and economic practice.

The international niche of recommending groundworks of certain sciences in a criminology complex differs in the scales of consequences of application of these recommendations, as the question is about the influence on substance of the world processes. This supposes, firstly, the transcendent approach to the estimation of activity and behavior of a state in the system of international relations, but not an immanent one meaning that the behavior of a state is estimated through the prism of intra-national criteria. Secondly, the content of criminology recommendations here should be formed with the orientation not on the individual will of a state, as it is in a national law, but on realities of the agreed will, at least, of a group of states. Thirdly, the international conventional legal law content of measures follows from this, and these measures are accepted basing on the results of introduction of groundworks of criminology in an international sphere.

This, consequently, means the necessity of discussion of the problem of coordination of criminology itself, its methods and methodology. That means that the question is about new tendencies in development of comparative criminology.

Special criminological preventing measures are divided into general and specific. They are referred first of all to the sphere of management, but can not pretend to basic alternations, and concern the improving of its separate links and parts (for example, accounting, financial reporting, financial means reporting).

Different levels of criminality predetermine the peculiarities of the individual prophylaxis.

The meaningful «role» of the intergovernmental relations and state as a basic player in the international arena in producing of modern elements of international criminogenic factors turns it into the central «personality» for criminology of international sphere. Consequently, in the modern conditions of the intensive global processes (with their criminogenic factors) the actuality of question about international criminal responsibility of a state, committing crime on an international law, newly arises.

The theory of crime prevention is also related (as well as other constituents of the criminology subject) with the problem of criminality prognostication and planning of prediction measures.

For the international life sphere such prognostication should be carried out by means of «criminological» estimation of front-rank theories of world development. The estimation of efficiency of international law and its separate branches on the background of such theories is also useful³.

Completing the consideration of the subject of criminology, it should be noted that it includes the problem of victims of crime. In science this direction was named «victimology». Quite often the criminal behaviour is provoked by the negative behavior of the victim. And it is impossible, in particular, to exclude the element of victimity in terrorism. The term «victimization» means the process of converting a certain personality, and also certain social group of people, into the victim of a crime.

It is obvious, that the specificity of the subject of criminology in the sphere of its relation to the international law is not properly studied. And it has a list of distinctive features which give it new qualitative descriptions and influence on the content of criminology itself as a science of criminal legal cycle.

1.3. THE SYSTEM OF CRIMINOLOGY, ITS METHODS AND CORRELATION WITH OTHER SCIENCES

It is necessary to determine the system of criminology from the positions generally accepted in science: as a science system (order of research of problems) and as a system of course (comfortable for perception description of science problems).

³ See for example: Антипенко В. Ф. Теории мирового развития и антитеррористическое право. Логика сопрягаемости: монография / В. Ф. Антипенко. – К., 2007. – 440 с.

In sciences of law, which are closely related to the legislation, the science system quite often coincides with the system of legislation (the availability of General part and Special part both in science of criminal law and in a criminal legislation).

For criminology the problem of division on General and Special parts is a little conditional, because many questions which can be attributed to Special part (for example, terrorism), actually make a considerable theoretical problem. This fact gives certain grounds for the statement of a question about the differentiation of criminology. So, very imposing material, making up the General and Special parts of criminology, is seen in content of scientific direction and educational discipline of international criminology of terrorism.

To the General part the scientific criminology problems, concerning the science of criminology, the history of criminology, criminality, its causality and determination should be referred. It is necessary to refer here also the theoretical ground of specificity of terrorism and system of its cognition.

The Special part is successfully connected with the specific scientific methods of international criminology of terrorism, for example, conflictological, international-sociological, geopolitical, geoeconomical, culturological methods etc. The specificity of the subject, that is actually terrorism, is combined here, first of all, with the complex subject of this international delict.

It is accepted to consider that modern criminology systematizes a crime a) according to the spheres of activity of criminals; b) according to the degree of their organization; c) according to the contingent of criminals; d) according to the reasons of not only criminals but also that social division of criminals, which is observed in a country. It is obvious, that international criminality is outside such systematization. Really it is not possible to tell, for example, about the criminology system in the international sphere without taking into account such conflictmaking (crimogenic) factors of global character, as socio-economic polarization of the world, growing inequality in access of the states to the resources,

technologies, essential changes of conflictogenic globalization as planetary social process.

In the generalized form the system of criminology as a science consists of the fact that concepts, object and science tasks are examined at first. History and condition of criminology as a science are on the second place. After this its key problems are analysed (criminality, personality of criminal, reasons and terms, warning, prognostication); and finally the most dangerous and the most widespread types of criminality are analysed.

The considered constituents of the subject of criminology are studied not only by this science, that is why it is interdisciplinary by the character.

If to consider the correlation of criminology with sciences of law, a criminal law should first of all be taken into account. Criminal law is a science about the responsibility for the commission of a crime. It does not appeal to those phenomena, events and actions of a person, which precede a crime; it is not interested in causations of crime and conditions of committing a crime. Moral, social and psychological features of personality of criminal are outside criminal law. However all these facts (within the framework of mechanism of a criminal behaviour and determinant of criminality) form the subject of criminology.

International criminal law can make an exception here, because in a number of cases reasons and terms, and also events and actions of international legal subjects, preceding international crimes, quite often form international delinquencies themselves. In the international life a border between amorality and international delinquency, between international criminal activity and political reasonability are very conditional. Consequently, for the study of these processes other specific approaches are needed.

So, the organic connection of criminology with a criminal law consists of the fact that criminal law determines the limits and scopes of the subject of criminology, and it is obvious that they have other criteria in an international criminal law. In a national criminal law the list of criminal acts is determined by a criminal code, and actually such acts are determined by criminology. Criminology originated from a national criminal law, but it

got the possibility of its own development in accordance with the objective requirements of life in all its variety.

The realities of the international relations for criminology remained accessible only in that measure, in which actions, codified (criminalized) in a national law, go out in an international sphere and are estimated there adequately.

The Statute of the International Criminal Court is a little conditionally named as an international criminal code. It is enough to take into account that the determination of concepts (and the corresponding norms) of such meaningful international crimes as aggression and terrorism are absent in this important anticriminal international act. It turns out in general that the rather criminogenic phenomenon of globalization, which products the increasing international criminality, lies outside any criminal code. It is not (and will not be) possible to take its maintenance and criminogenic mechanisms under control, being based on the traditional scheme of connection of criminology and criminal law in its national-legal characteristics. The mechanism of criminal behaviour in relation to the international criminality, taking into account the state subjectivity in it, substantially differs from that one which is observed in criminality of the internal character and criminality with a foreign element. The confirmation of this is an objective necessity and formation during the last decade of international criminal law and international criminal legal procedure. However, even this have not resulted in creation of the effective international legal control system in relation to separate, complex in their social and geopolitical mechanisms crimes. Their specificity and scales of threats going from them require the interdisciplinary in international law approach to the organization of criminal legal control and effective counteraction. The necessity of deep cognition of the special mechanisms of such crimes is connected with this, and that does not exclude the international specification of criminology itself.

So, for example, the process of forming of international criminology in relation to terrorism is carried out on the base of connection with an international criminal law, and subsequently is oriented on the specificity

and groundworks of the recreated intersystem branch – international anti-terrorist law.

As to the connection of the criminal procedure with the science, there is a direct order in criminal procedure legislation: investigator, public prosecutor, court in every criminal case must find out reasons, terms which promote committing a crime, and offer measures, aimed at their removal.

The international criminal procedure is concentrated mainly on the international criminal legal procedure and is realized in accordance with principles of Statute of the International criminal court, International tribunals on former Yugoslavia and Rwanda and with constituent documents of the other, as a rule, mixed and internationalized courts. The absence of the generally accepted determinations of the concepts of crimes and proper direct norms of international criminal law, according to which the international legal procedure would be carried out, impedes purposeful criminology separation of the separate dangerous international crimes (for example, terrorism, aggression). It is therefore possible to explain the meaningfulness of the system criminology researches (in relation to indicated and other crimes), qualified carrying of which is possible on conditions of certain specification of the proper criminology direction.

Criminalistics gets from criminology data about the state of criminality, features of «mechanisms», «methods» of committing crimes, about properties of personality of criminal.

As to the science of criminal executive law, it should be taken into account that, firstly, many crimes are committed in rehabilitation facilities, and, secondly, knowledge of causality and motivation is instrumental in purposeful organization of correction and prophylaxis.

Criminology is closely connected with sciences which do not have legal orientation. First of all, it is sociology which studies society in the process of its functioning. It is interesting to mention that sociology has a few subindustries: sociology of family, sociology of labour, sport sociology, etc.

This testifies in behalf on doctrine approach concerning the reasonability of creation of the most actual directions of criminology. Certainly, international criminology of terrorism may play such a role.

For criminology concerning international criminality the sciences of unlegal sphere have an exceptionally important value, because political and legal concepts in international law in general go together and form rather complex symbiosis. But what is more important, the causality of crimes in international law is determined not only by the social-psychological and social-legal categories concerning individuals and certain social groups which exist within the limits of the state. Physical persons and social groups for international criminology, and consequently, for the allied sciences, performing criminological function, are interesting in their connection with the state as determining international legal subject.

For cognition of states behavior, its motivation, interests in the stormy dynamics of international relations criminology cannot avoid being filled with maintenance of such international sciences, as geopolitics, geoeconomics, conflictology, culturology, sociology of international relations and other.

So, the sciences indicated above and some other ones, actually, make up the content of criminology, studying international criminality. Because it is rather problematic to compensate the lack of scientific knowledge due to the social questioning, in particular of convicted persons or by the receipt of operative information etc, as it is possible in domestic criminology. And the international character of sciences referred above does not matter in this case. It is important that the subject of their attention is, firstly, the national state, its mutual relations with other states, international organizations and other actors of international relations. Consequently, the mechanisms of forming here of criminality have a character different from that, which is formed at the level of mutual relations of physical persons and small social groups.

Secondly, international sciences in a greater degree concentrate themselves on research of international society as a global economic organism and as social megaintegrity, which is not a simply certain sum of

states-nations, but has found other qualities, different from those which are inherent in state. The estimation of behavior and progress trends of this high-quality new global formation is accessible only to the complex of international sciences, able to point out the gnosiology of global society, negative, conflict-making tendencies in it, that is to probe its criminogenic qualities.

For the needs of forestaling and criminal legal control of international criminality criminology must use such possibilities, undertaking coordinating guiding functions.

There are not doubts, that considering the content and methods (not mentioning the scales of influence on criminality) it is another criminology already, than that with which we intervene in its traditional perception.

And the question is not so much in the fact that the sciences called to «serve» the international criminal law (that is to enrich criminology vision of international criminality) are in their essence international. Working for benefit of criminology of sphere of international relations, they have another in their nature and essence subject of research in comparison to criminology, which is based on the approaches and criteria, formed in the system of national criminal law. «Criminological» involving of geopolitics, geoeconomics, sociology of international relations and other sciences related to law, supposes the appearance of another (international) methods and methodology of research of determinants of international criminality, products the new stereotypes of conception of mechanisms and dynamics of forming of crimes in the process of global development of international society.

By the way, in the process of perfection of criminology studies there have been the suggestions to extend the subject of criminology due to the study of the related with criminality phenomena (alcoholism, drug addiction etc.). These suggestions, certainly, remained unrealized. However, if the subject of science itself acquires considerable actuality and specificity (for example, terrorism), then it requires the specification of science itself by the separation of the independent subbranches and directions. It is necessary to do, when such specificity acquires

«autonomous» character and requires the independent method of study of problem.

The existent precedents of separation of directions in sociology are instructive and valuable for criminology taking into account the relation of these two sciences. Criminology not by chance is named a criminal sociology. English-American tradition even foresees the teaching of criminology in the faculties of sociology.

It is worth to mention also the close connection of criminology with psychology (general, social, legal) the subject of which is the internal life of a man and social groups.

Thus, if it goes about methods, then the specificity of the criminological approach to the cognition of the fact which makes up the subject of this science consists of the following: criminology studies criminality and phenomena related with it as social-legal reality. In it the most wide and successive approach to the research of criminality, personality of criminal is inherent. This fact makes criminology different from the science of criminal law, which has its own sociology, but mainly concentrates its attention on the analysis of legal norms, criminal law provisions about a crime, punishment. If the subject of criminology science went out the limits of personality of criminal, at least, in part of subjectivity of crime, and appeared as an international association, state, physical persons, representing it, then the science is under an obligation to react on this. With the moving of the processes of globalization to the active phase it becomes obvious, that the traditional methods of criminology have already not allowed probing valuably modern international criminality. Therefore the question about an international specification in criminology, separation of the proper direction in this science consequently arises.

At the same time, however, criminology as social-legal science should not be distracted from legal descriptions of criminality, crime and criminal. And this makes it different, for example, from the sections of sociology, which study social declinations, and among them is criminality.

The specificity of criminology cognition consists also in the fact that there is an essential accent in it on causal explanation of the social-legal

phenomena and processes which are studied by this science. The existence and development of criminology in general is related to such an approach to fighting against criminality, in accordance with which a main task determines the prevention of this social phenomenon. General theory, conception of prevention of crime makes up the prerogative of criminology. Finally, criminology, unlike indicated and other legal sciences, takes part in development not only legal but also other measures of preventing criminality. It is possible to make sure in this, examining, for example, the conclusions of criminology concerning terrorism in social, economic and military industries.

Along with scientific methods (formal logic, analysis and synthesis, induction and deduction, analogy, design and other) criminology uses the instruments of sociological cognition, in particular such methods of receiving of social-legal information, as questionnaire, interviewing, studying of documents of supervision, experiment. An important role in criminology researches is played by the measures of statistical analysis.

The tasks of criminology consist first of all in receiving of reliable knowledge about everything that makes up its object. This science exposes and fixes the certain facts of social reality, connected with the existence of criminality, estimates their properties and descriptions, gives them scientific description. Then, exposing the essence of the probed objects on the basis of empiric information and theoretical positions, in particular establishing the regularities of criminality, action of its reasons, formation of protesting social groups and their subsequent transformation in the criminal groupings, forming of personality of criminal, functioning of the system of crime prevention, criminology gives them scientific explanation. Studying the tendencies, prospects of changes in the criminological phenomena and processes, this science also predicts their future state and developing. The aiming of criminology at the scientific grounding of the system of measures on crime prevention allows also considering the question about its practically transforming function.

As a methodological base in studying the subject of criminology, the science widely uses laws, categories and concepts of philosophy,

sociology, economic science, political science, culturology, psychology, pedagogics and other sciences and fields of knowledges.

Thus, modern criminology is a steady enough theoretical system which personifies the function of fight against criminality within the limits of another large system – human society. In the process of the internationalization of life the epicentres of social processes are perceptibly displacing in the international sphere. Criminality is also not an exception. The international format and essence of it appear due to three sources: 1) from initially international in their essence crimes; 2) from the crimes of «national» origin, which are «enriched» with an international element; 3) from actually intra-national criminality which as such influences on the content and activity of international criminality.

The subjectivity in international criminality acquires another character, here the concept of personality should be first of all connected with a state, and not only with a physical person. That is the subject of science criminology in the field of international criminality undergoes formal and essence changes.

Does the content of criminology science given in this section to a full degree correspond to the specificity and distinguishing features of international criminality? It is obvious, that the dynamics of displacement of epicentres of scientific efforts in criminology is not comparable with the intensity of global tendencies of influence on international criminality. Criminology science not fully covers the determination and causality of international criminality, and that fact negatively affects purposefulness and efficiency of international legal norms and positions of anticriminal character. The given chain of failings in the system of counteraction of international criminality is conditioned by the fact that criminology does not reorient in relation to the methods of cognition of origin of criminality, its content and mechanisms of realization, because determination itself and causality of international criminality has other character, scales and forming dynamics.

Accordingly, the system reforming of orientation of scientific search, conditioned by the specificity of the subject of science, pulls out the

necessity of involving of another specific scientific methods and instruments. That is a problem of separation within the framework of criminology science of independent direction arises with the purpose of determination, concentration and realization of specific scientific facilities and methods which would correspond to the specificity and complication of genesis of international criminality.

The limits of specification are stipulated here, firstly, by inviolability of initial destination of criminology on the exposure of origin and nature of criminality and its prevention. Secondly, by inviolability of basic principles of criminology, concerning intersectoral and interdisciplinary approaches, by the use except for legal also political, socio-economic and other mechanisms of affecting criminality. Thirdly, they are stipulated by a relation and intercommunication of international and national legal systems, and also of international criminal law and intra-national criminal law.

In behalf of confirmation of such an approach to the problem of separation of international criminology let's appeal to the history of origin and development of this science.

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Part 2.

INTERNATIONAL LEGAL COMPONENT OF THE MAIN CRIMINOLOGICAL THEORIES⁴

The confrontation between a society and criminality has been the perpetual process since the society appeared. The phenomena of relative freedom from crimes are known to the society. However, none of the states or society systems succeeded in becoming free from crimes completely.

The majority of criminal factors and ways of their localization are known to the mankind. Many acquirements known nowadays as modern have been used in the practice of the influence on crimes for ages. But there is still no success in creating the system of the influence on crimes, which would be able to eliminate it completely. Although the generalization of different achievements in the sphere of counteraction against crimes creates possibilities for effective resistance against it.

The detection of social regularities and fundamental principles of success in fighting against crime can build basis, on which the search for optimal solutions of a problem concerning the society's decriminalization would be possible.

Taking into consideration the internationalization of the community of nations, it's also important to detect the historical facts and characteristics indicating on the universality of criminology as a science, the fixed and time-tested categories of which could be effective in the sphere of struggle against crime nowadays.

On the other hand, considering the criminological science gnoseology, we should pay attention to the conditions and circumstances which objectively serve as the basis for the formation of the scientific methods and approaches, which are possible only within the criminality in state

⁴This part is based on the data of the paper: Иншаков, С. М. Зарубежная криминология / С. М. Иншаков. – М. : Издат. группа НОРМА-ИНФРА-М, 1997. – 383 с.

society and can't be effective against certain international crimes or their certain category, particularly terrorism.

Taking into consideration the needs and intensity of development of international law and actualization first of all of such its branch as criminal law, would help to become clear with the measure of specific character of criminology in the sphere of international criminality, and with the reasonability and possibility of the certain form of its separation in the system of science.

2.1. THE ORIGINS OF CRIMINOLOGY

Vendetta and chieftaincy. The most ancient mechanisms of reacting on the breach of the social norms of behaviour are considered those, that are based on the power of a chieftain, a leader. Vendetta may with confidence be called a precursor of modern terrorism, as far as it strengthened defensive powers first of all of a weak individual.

Under the present conditions of global processes' intensification, within which the disproportional distribution of their consequences, i.e. weal and burden, has strengthened the polarization of international society down to the limit, the terrorism turned out to be an efficient objection form of mega society, presented by the regions of the so-called "third world". Exactly as in a mechanism of the vendetta, the absolute asymmetry of terrorist acts as a mode of armed struggle, appeared to be very attractive for radical groups, which represent or seek to represent the destitute "third world".

In old times a perspective of vendetta reduced a violent aggression, since under conditions of vendetta a person was considered not per se, but as a part of a stronger unit, and this unit had to be considered while injuring a weaker person. Using the language of law, the object of invasion here shifts from an individual to public (patrimonial) relations.

The broadening of spatial and time frames of a conflict by the use of a vendetta, directing attention of many people (what is also significant

characteristics of modern terrorism) prevented from the growth or recurrence of offenses.

Firstly the family feud and the chieftainship combined and supplemented with each other: the feud was aimed generally at the relations out of the family and the chieftainship – at the relations inside the family. But with the extension of chieftain’s power and organization of big social groups, which united several families, the vendetta “removed” inside the unions, and that made the chieftain’s power weaker. In such a way the chieftainship denied the family feud, it was put under a ban and the function of conflict resolution was undertaken by the leader. The analysis of correlation between the mechanisms of the family feud and the chieftainship indicates a general rule – when social groups can’t find the support of authority in solving their problems, they appeal to insidious methods of influence on the authority, widening the measures of a conflict and involving in it many people. Exactly such a mechanism underlies modern terrorism. The analogy of demand for asymmetric modes of actions, in spite of their cruelty, is determined by the analogy of a result perspective: it is the family feud and punitive system, which led the humanity from the land of savagery and lawlessness out. The family protection gave a weak person the right to existence.

Such a mechanism, transformed into a terrorist form, obviously has a permanent character. In the opinion of terrorism ideology supporters, terrorist methods of actions are power instruments, which can secure the right to existence and progress for the weak states. It follows that the elimination of terrorism as a confrontation of conflict parties should be linked with the elimination of inaccessibility of the same goal with the help of another means.

Anticriminal influence of religion. As the development of civilization progresses, and when it became clear that a punishment is not all-powerful, the means of influence on criminality began to be quested also in other spheres. And religion appeared to be a powerful instrument of influence on social processes, including preventing from crime growth. Religious influence on the criminality was based on the same ground as the family

feud. But religion extended the time measures of a conflict, because it was claimed that the consequences of a conflict can act even after the death of a man. Religion controlled not only bad actions of people, but also their bad thoughts, concerning that they are known to God. Therefore, the religious form of social control became the most effective and all-embracing. However, the attempts to realize the religious influence in practice had no effect, since none of the states succeeded to stop the impunity.

One of the examples of interpenetration of punishment and religion (the punishment forced to respect religion and the religion transformed the punishment into divine creation) are The Laws of Manu. Through the lips of their forefather Manu the ancient Hindu proclaimed: "To help the supreme ruler in his functions, from the very beginning the Lord produced the genius of punishment, the protector of all beings, the executor of justice, his own son, whose essence is wholly divine. It is the fear of punishment which allows all creatures, movable or immovable ones, to enjoy what is their own, and which prevents them from straying from their duties. Punishment governs the human race, protects it; punishment is justice, the wise say. All classes would become corrupted, all the barriers would be deleted, the universe would be mere chaos, if punishment no longer performed its duty" [10, p. 111].

Promoting law obedience, religion at the same time prevented from the development of needs and, consequently, facilitated the decrease of motives of both profit ones and violent crimes.

However, with the flowing of time, especially with the appearance of such pragmatic trends in religion as Lutheranism and Calvinism, the barriers on the way of increasing of people's demands have considerably weakened.

Christian-European model of a society became more attractive and materially effective in comparison with the East, where religions (Islam, Buddhism, Shintoism, Confucianism etc.), remaining conservative and traditional, influenced the morality and law-and-order in a different way.

The classical examples of effectiveness of religious influence on criminality can be presented by Islamic fundamentalist states (Iran, Syria, Libya and others).

Education as a way of crime-rate decrease. Cultural progress gradually led mankind to the problem of education. Possibility of crime prevention by means of education was considered by such ancient philosophers as Confucius, Pythagoras, Democritus, Socrates.

Confucius originated a theory of education when a governor serves an example for his subjects, and also a theory of family education, based on absolute subjection of younger family members to the elder ones.

Borrowed by the Japanese followers this conservative system of Confucius impresses by its results up to now, since it is a guarantee of stability of Japanese society with one of the lowest crime rates in the world.

Pythagoras laid down the foundations of the social-education system in Ancient Greece. Democritus not only developed the idea of influence on crimes with the help of education, but also partly became a father of measures for the prevention of offences on the basis of victimology.

Socrates connected morality with intelligence, with the knowledge of good. He considered that, the root of criminality should be searched in bad education of the youth and in the defects of education system. According to Socrates, people resort to bad actions against their own will, when they are robbed by forgetfulness, raped by suffering and tempted by delight, and the reason of evil – is the imperfection of society, the lack of real knowledge and inability to live [29, p. 418-476].

An original system of education through the state's interference and influence on the sphere of family relations was created in the Hellenic state of that time – in Sparta. The principle, that the main aim of a marriage was “the production” of healthy and sane citizens, was the indisputable truth there. Single life was considered to be a crime. But the murder of babies, who had some signs of degeneration, wasn't a crime. Such a cruel system of education was caused by severe laws of that epoch. The battle on the Pass of Thermopylae, when 300 Spartans could confront 200 000 army of the Persian tsar Xerx for several days, has become a part of history. Sparta

showed the world that family relations and the process of upbringing of a child can be efficiently controlled by a state for different purposes, including prevention from crimes.

In Ancient Greece much attention was paid to the state system as a factor, which determines the respect to laws and their obeying. The essence of state system should convince every citizen of the justice of laws, the obeying of which is considered to be a good.

Following the example of the ancient Egyptians (tsar Amasis, VI century B.C.) a great reformer Solon obliged each citizen of Athens to declare his income yearly. For a breach of this rule the punishment by death was foreseen. Therefore it was possible to manage social processes with the help of law and fiscal mechanism.

A famous ancient Greek philosopher Plato carried out one of the first sociological studies of criminal phenomenon. He was the first, who began to consider law violation as the consequence of serious disease of a state. He saw one of the most important causes of this disease in intestine wars and strife between poverty and wealth. He suggested to define appropriate measures, according to which the average-income of the most rich people could not be higher than four times as much as the average-income of the most poor citizens. The optimality of such an approach is confirmed by modern researches. Socioeconomic polarization results in especially hard criminogenic consequences under the conditions of globalization. In the process of researching the causality of terrorism and other international crimes, specialists face impressive statistics, which points to a social chasm between the western civilization and the regions of “the third world”.

In Plato’s papers we can see the origins of Bentham’s doctrine of pleasure and pain. Plato’s theory of fight against crime looks as multiform and detailed. He directed to legislate, forestalling events, showed the negative role of impunity. Plato is not a scholastic philosopher, he bases his ideas on special criminological investigations. For example, in “Laws” we can find the sociology of murder motives in Athens (ambition, aspiration for riches and concealment of a crime) [30, p. 337-406].

Aristotle paid much attention to crimes in his multiform papers. He considered poverty, unreasonable privileges of some citizens and political lack of rights of others and also national conflicts to be the main causes of crime. He disapproved the cult of wealth, noting that the most serious crimes are committed because of aspiration for excess-profit, but not because of the necessities-of-life lack [3, p. 416, 417, 421].

He criticized the theory of delinquent by birth: those people, who consider a man to be bad not by his own will, are wrong.

As effective methods of influence on crimes he determines such social factors as:

- just state organization;
- stability of laws;
- unconditional rule of law;
- fight against corruption;
- development of the economy (“a state, that strives for fair system, should free its citizens from concerning about the necessities of life”);
- to afford possibilities for different groups of population to be active in various forms [4, p. 295-374].

Aristotle took the fight against corruption as a basis for state stability. “The most important thing in each state system is to settle it in such a way that the officials couldn’t make a fortune” [3, p. 547]. “Only those state systems, which mean common good, are, according to strict justice, right” [3, p. 456].

And the deviation from justice in state system he considers to be the main reason of state collapse [3, p. 542].

In the papers of Aristotle are also rather actual ideas concerning the system of youth education even at this time: “A state should protect the youth from contacting with everything bad, especially that, which can foment hatred” [3, p. 544].

Aristotle’s investigations about coup d’état are especially interesting. He saw the origins and reasons of such revolutions in the desire for property repartition by a nation, that allows to be deceived. Nevertheless he formulated one of the most fundamental principles of preventive measures

in negative social processes: “If we know, why state systems collapse, it means that we know, how to preserve them: countermeasures produce counteractions” [3, p. 544].

Aristotle, like Plato, considers excessive social differentiation to be destructive for the society: “The best way is to try to organize everything with the help of law regulations, so that nobody could stand out for his strength – either this strength is based on a big number of friends or on prosperity” [3, p. 551].

However, the basis of social stability for Aristotle is the system of education: “Even the best laws won’t be useful, if the citizens are not learned to keep state order and are not educated in the spirit of order” [3, p. 551].

The humanity gained a lot by the wills of these and other wise men of ancient times concerning the sphere of anticriminal role of social equality. However it concerns mainly the problems of organization inside a state and is inherent for developed states of the West. Neither international law, nor international ethics haven’t yet created due conditions to eliminate social differentiation and inter-state differences.

A good example of state system of education was demonstrated by the Roman empire. Ancient Rome gave the descendants not only examples of harsh measures of influence on crimes, such as crucifix, public tear by wild animals, enslavement of children for disobedience to father, – many ideas of ancient Greek philosophers were realized in the Roman state. During long and exhausting Punic Wars, which required considerable efforts from national forces, a special system of education was formed, which disciplined men, inculcated them the idea of honour and valour from the early childhood.

This constant war readiness kept in tension the whole nation and appeared to be a powerful means of its consolidation and minimization of offences. It is the epoch (golden century of a great state) which Titus Livius proudly wrote about: “There have never been a state, where greed and luxury have come so late and where poverty and temperance have been honoured so long” [22, p. 3].

Such examples are very useful for international-criminological analyses, aimed at looking for ways of strengthening international law order, removal of international-criminality determinants with the help of finding common global interest in the face of threat of ecological, economical and nuclear disaster.

Besides, a high level of religiousness is noted in Roman Empire, because, according to Ciceron, the belief in Gods brings devotion, that is useful for states. A key position of Confucius, that the governor should be an example for citizens, was fully put here into practice.

Social differentiation didn't draw a wide protest reaction here, because it was largely leveled by the special role of the upper class and high level of its responsibility.

The conclusive privilege of rich people was the right to take part in a war in the first ranks. The most poor people had no access to the military service. It was considered to be just and such an order corresponded to the gods.

One of the first criminological experiments concerning re-education through work of pirates instead of capital punishment was made in times of consul Pompeii in Ancient Rome.

J. Caesar also implemented different ideas of criminological character. He made punishment for criminals more severe. Since rich people lost nothing of their property, they committed lawless acts much more easier. That's why Caesar began to punish criminals according to the next scheme: a murderer was deprived of the whole his property, and other criminals – of the half of their property. The laws, aimed against luxury had to be obeyed especially strictly. By the way, as it turned out later, it was over-luxury, that was the main reason of the fall of the great empire. And the same situation can be observed today – at the level of global society. However, the criminogenity of this specific characteristic of globalization hasn't become the investigation-subject of modern criminology (and probably it couldn't become). This significant element of modern international life as one of the reasons of international-crimes activization hasn't yet been appraised by such science as criminology.

At the same time a severe penal policy was also introduced within the Roman empire and it was successfully borrowed by Stalin, Hitler, Mussolini, Franco and Pinochet and another dictators of the present.

In the Epoch of Middle Ages over-cruelty of punishment and the rule of religion over the essence of crimes and methods of fight against them were the main symbols of the fight against crimes.

The Holy Aurelius Augustinus (354 – 430) formed the grounds of a free-will-concept, basing on Buddhism and other dual religions, which developed the ideas of eternal confrontation of good and evil powers. According to this concept a man is free in the choice of his actions, and only under influence of evil powers he makes an action, which is called a crime.

“If God creates evil, than who creates good?” – asks Augustinius. In search of an answer he made a very important methodological conclusion: evil is nothing else than the impairment of good.

Rather complicated and sometimes beyond the human mind transformation processes of good can lead to appearance of evil powers, which are only a temporary show of a good essence and which inevitably will be again transformed into a good. Augustinius invented peculiar mechanisms of self-restriction of evil: “Actions of evil people have something bad back in reply” [1, p. 27, 29, 35].

Except quite complicated theological thoughts, a criminological component can also be observed in the papers of Augustinius. It concerns his observations about the role of accomplices in origin of crimes, about illusions and wrong beliefs as reasons of crimes and about motives of crimes. His criticism concerning gladiator battles (pleasure from misfortune of the others) is enough correlative with aiming at the solution of problems, generated in society by modern “masscult”.

For explanation of its activity the Inquisition needed some theoretical searches in the sphere of nature of crimes. Theorists of the Inquisition (John Damascus, Thomas Aquinas, Jacob Sprenger and others) developed the conception of a criminal as an accomplice of evil powers and worked

out the methods of their detection. That was, except tortures, the search of devil-signs.

Such approaches in modern antiterrorist law have completely something in common with a mistaken principle of absolutization of terrorist crimes. According to this principle, during the appraisal of a terrorist crime it is suggested to overpass considerations of a political, philosophical, ideological or any other nature with which guilty persons could be governed [8].

In such a way, history confirms that when law forgets about the motives of a crime, it transforms into the instrument of political reprisal and in fact dies out.

But as opposed to the Middle Ages, in the system of modern sciences of criminal-legal cycle we can talk about such science as criminology. And this science has without any doubts appreciable results at the level of national criminal-legal systems. At the same time we receive again and again the evidences that criminology in a number of cases isn't able to front the most urgent problems of determination of international crimes.

The monks-inquisitors J.Sprenger and H.Institoris published the handbook on fight against crimes – “Witch Hammer” in 1486.

According to their position, burning at the stake was considered to be the most human type of punishment. By the estimate of specialists, Spanish inquisition annihilated 300 000 of people and 30 000 of them were burned. If there were some extenuating circumstances those people were firstly strangled.

I think that if we speak about European law-obedience, we should not disregard this circumstance.

Thoughts of Thomas Aquinas (1225 – 1274) concerning special type of crimes – crimes of authority – represent a special interest.

Since here laws are powerless, then only extreme measures are possible: if a monarch, the power-carrier, breaks his sacred obligations before God and humanity, he can be removed in a violent way.

It should be said that gradually with the help of criminology the question about the control over authorities within a national state, has been

quite deeply examined. The results of these researches are especially appreciable in the legal practice of Western countries. But what is to be done with nominal world authority, to be more precise with the powers which represent and realize this authority, so-called “world elite”? Because the deformation, if not to say the destruction tendency of world-order, is actually obvious. It is clear that working in a traditional way, with traditional methods and on traditional scales, criminology doesn’t cover and won’t cover this question. The “national” conditions of the vertical chain of authorities are absent here, just like official notion of international or world authority itself. But at the same time criminalization of international life and criminogenity of globalization increase. And here the problem of new quality of participation of criminology and its international possibilities are brought in the forefront.

The church reformers – German monk Martin Luther King (1483 – 1546) and Swiss priest Jean Calvin (1509 – 1564) through negation of Christian postulates of asceticism, fight against profits and greed actually facilitated struggle of the rich against the poor. In the states where Protestantism dominated (Sweden, Denmark and others) the very fact of poverty virtually was a crime: vagrants were hanged in such an amount that it was lack of hemp for ropes and wood for gibbets.

With the flowing of time this question was more or less settled at the national level. Social policy of the Western states (there is a big contribution of criminology in this sphere) has given brilliant results. But in the international life it might be said that the metamorphosis of the Middle Ages still continues. Producing ever more powerful criminality, the system of world structure, which is organized according to the rules proposed by the developed countries, connects in the meanwhile the bigger part of these crimes with poor regions of the so-called “third world”.

To say figuratively, criminology, which is “educated in a national spirit” is able only to observe this phenomenon of transfer (both in a literal and in a figurative senses) of crimes and their causality.

I can agree that if we take such criteria of international crimes as time, space and their subjects, then these crimes are really connected with the

most poor regions of the world. But strategic determination and causality of these crimes have another features and characteristics, which, unfortunately, haven't become the subject of active research of criminology, since this criminology is not ready for that because of its "national" essence.

For all that, in spite of impress of religious mysticism, we still can see some elements of theoretical achievements in the sphere of fight against crimes in the Middle Ages, namely:

- a look at a crime as at a display of evil;
- a doctrine of free will as a basis of penal practice;
- a concept of special internal and external condition of criminals and possibilities of early diagnostics of this condition.

It should be said, that despite of the fact that most points of view at crimes of this period are connected with the showing of devil, the idea of social transformations as means of influence on crimes had not disappeared (T. Mor, T. Campanella).

2.2. THE CLASSICAL SCHOOL OF CRIMINAL LAW

Cultural progress and the review of possibilities of cruelty as a factor of social relations regulation promoted wide spreading of humane views on social processes, including crimes.

Papers of great enlighteners of XVIII century – philosophers Russo, Voltaire, Diderot, Montesquieu developed ideas of utopians T. Mor and T. Campanella and made them more realistic. They suggested statements about humanization of the whole system of influence on crimes. The imperative "It's better to leave ten criminals unpunished rather than to punish one guilty person" has become worldwide famous.

Scientific achievements of C.Beccaria. The ideas of humanists were synthesized by Italian lawyer C.Beccaria, who published his fundamental paper "On crimes and punishments" in 1764.

The community of his key principles with the papers of French encyclopedists was striking. Cruelty of means of influence on crimes even was the cause of Beccaria's refusal from lawyer career.

In his papers Beccaria systematized philosophic-criminological ideas of his predecessors and as a result he defined next principles:

“It's better to prevent crimes than to punish”.

“Do you want to prevent a crime? Let the laws be clear and simple, let the entire force of a nation be united in their defence”.

“There must be a fixed proportion between crimes and punishments. A punishment obtains sufficient effect when its severity just exceeds the benefit the offender receives from the crime”.

“The faster is the punishment for the crime, the more just and useful it will be”.

“The certainty of a well moderated punishment will always make a greater impression than the fear of a more severe punishment that is accompanied by the hope of impunity”.

“Capital punishment can't be effective, because it is an example of cruelty”.

“Judges do not have the authority to interpret the laws for the simple reason that they are not legislators. Nothing is more dangerous than the common belief that one should be guided by the “spirit of the law”. In such a case this “spirit of law” may depend on good or bad logic of a judge, on his good or bad digestion”.

Ideas of C. Beccaria were realized in criminal codes of Prussia (Friedrich II) and France (1791).

Punitive imperative of I. Kant. Philosophical ideas of I. Kant concerning punishment are of a very big interest. Immanuel Kant (1724 – 1804) worked out a very specific philosophical system, in which problems of morality took a very significant position.

According to I. Kant, evil can be supposed as subjectively necessary in each, even the best person. It is no coincidence, that the third chapter of his fundamental book “Religion within the boundaries of mere reason” is called “Man is evil by nature”.

On this basis he made some conclusions about reasons for moral and legal responsibility: “If a human being in a moral sense may or should be kind or evil, then he should make himself suchlike. These two things should be a result of his free power of choice, otherwise they could not be imputed to him” [18, p. 29-30]. This statement is the basis of modern theory of subjective responsibility.

The principle of legal compulsion, developed in a book of I. Kant “The Metaphysics of Morals” has become an enduring value of human culture: “Whatever is wrong is a hindrance to freedom in accordance with universal laws. But compulsion is a hindrance or resistance to freedom. Therefore, if a certain use of freedom is itself a hindrance to freedom, then compulsion that is opposed to this (as a hindering of a hindrance of freedom) is consistent with freedom in accordance with universal laws, that is, it is right” [18, p. 254-255]. In such a way, compulsion should enlarge freedom – only in such a case it is justified and facilitates the development of society.

The philosophy of punishment was opened by I. Kant through the concept of punitive imperative: “The sentence of the judge... can never be for a criminal or for the whole civil society just means of promotion of another good: punishment should be exacted to a criminal only because he committed a crime; a man can't be treated as means of achievement of a goal for another person... He should be adjudged for punishment before a thought occurred that it's possible to benefit from that punishment for himself or for his fellow citizens. The punitive imperative is a categorical imperative, woe be to those, who, appealing to the need of happiness, is trying to find something, that could save him from punishment or at least some part of it, according to the slogan of Pharisees: “Let better one person die, than the whole nation”; because if justice disappears, human life on the Earth will have no value” [18, p. 366-367]. That is the conception of Kant, on which F. Dostoevsky based his thoughts about primary depravity of the world of global happiness, built on a child's tear [9, p. 229].

Justice stops to be justice, if it sells itself for some costs. This idea is convincing enough.

I. Kant tried to work out a principle of punishment: “What kind and what degree of punishment does legal justice adopt as its principle and standard? None other than the principle of equality, the principle of not treating one side more favorably than the other” [18, p. 367].

Approaches of the great thinker are completely differentiated with the basic idea of many religions, that the evil, which is brought by a man to the world is sure to return to him (sometimes in a visible way, otherwise – in a latent one).

Principles of legislation by J.Bentham. The theory of punishment, developed by English scientist Jeremy Bentham (1748 – 1832) didn’t correspond with ideas of I. Kant in all its parts. J. Bentham considered imperfection of laws to be one of the reasons of crimes. Developing the ideas of Sh. Montesquieu and C. Beccaria about proportionality of punishment, Bentham tried to find a specific way to define this proportionality. On the basis of a method of moral arithmetic (a criminal first of all estimates negative and positive sides of a crime) Bentham was trying to overcome the dogmatics of natural law. He compiled a comprehensive table of pleasures and pains, exposed conditions, which influence on sensitivity of a person [5; 6].

On this basis J. Bentham concluded principles of giving a sentence for criminals:

- “the evil of the punishments should exceed benefit of the offence”;
- “the less the punishment is inevitable, the more severe it should be”;
- “the more serious a crime is, the more easy we can venture on more severe punishment for a real hope to prevent this crime”;
- “the same punishments for the same crimes shouldn’t be imposed to all criminals without any exceptions. Circumstances, which have influence on sensitivity, should be taken into consideration” [7, p. 546–551].

Bentham doubted the efficiency of death penalty: “Don’t believe so much in the necessity of death. Avoiding it in punishments, you’ll prevent it in crimes” [5, p. 677].

Implementation of the ideas of classical school into codification practice by Feuerbach. German scientist Paul Johann Anselm von

Feuerbach (1775 – 1833) is the author of criminal law textbook (annotated criminal code, which was adopted as Criminal Code of Germany in 1813) [38].

He was the first, who began to extract from criminal law such autonomous branches of cognition as philosophy of punitive law, criminal psychology and criminal policy. These, extracted by Feuerbach branches can be considered to be the start of separation process of criminology into independent science.

Feuerbach, sharing the position of J. Bentham, worked out criminal legal theory of psychological coercion, or psychological intimidation as a goal of punishment. He divided punishment into two groups: punishments that threaten and punishments which are put into practice. The aim of the first group is to prevent from crimes by means of fear and the aim of the second one is to demonstrate the efficiency of laws [38, p. 16].

Feuerbach entered into history of criminology as the author of two original editions: “Remarkable criminal cases” and “Narratives of remarkable criminal trials”. In these papers the scientist paid much attention to the analysis of reasons of crimes and investigation of criminal identity.

Legal philosophy of Hegel. Legislative proposals of Feuerbach were strictly criticized by the great German philosopher Georg Wilhelm Friedrich Hegel (1770 – 1831), who developed comprehensive philosophical system of objective idealism that significantly differed from Kant’s concept of subjective idealism.

Hegel saw nature of crimes in special essence of laws. Divine, absolute and independent of human consciousness law (justice) exists as a display of an absolute idea. The Absolute, according to Hegel, is God. Humanity seeks to catch this absolute right and to reflect it in laws. However, this reflection is not always adequate. Therefore, there is appearance of “opposites between right in ourselves and for ourselves and that, to what arbitrary rule informs of strength of law” [14, p. 57]. These opposites are source of possible evaluation of law as unfair, and as a result, as subjective justification of its violation. Each person may have his own

notion about justice. Appropriate (personal) standards of behavior may not always coincide with laws established in society. And a man can often be guided by his own standards, but not by the laws of the country.

This idea of Hegel has a very deep meaning: the more just the laws are, the more people accept them as just, the less is the number of people who want to violate them. The increasing rate of crimes, especially of terrorism, points at essential defects in corresponding provisions of law, and thereafter, at inattention to this Hegelian postulate.

Developing the postulates of G.W.F. Hegel in the sphere of action of modern international antiterrorist law, criminology should have drawn conclusions, according to which the assessment of terrorism as international crime could substantially be changed. In particular, terroristic methods of actions aren't the end in itself, they are materially directed at establishment of justice in international law (right to self-determination, sovereign equality etc.). So, it might be said, that not the infringement of laws (principles and rules of international law), but their realization is considered to be a goal and a motive of terrorist activity. But the mode of this activity keeps being illegal.

National criminology explores different situations at the level of personality and in such a way it promotes removal from legislation of norms, which don't coincide with views of the majority at justice. As opposed to national legal level, criminology in international law hasn't managed this task at all. It is caused, first of all, by complexity of psychological investigations of big social groups, their behavior and by other peculiarities of international life. But criminology must notice at least the substantial social support of terroristic groups in international society.

Hegel defined, that each reasonable person has right to form his law. But at the same time he should be ready to apply this law to himself: "If a person is a murderer, than he makes a law that human life shouldn't be respected. In his actions he shows totality and in that way he awards a capital sentence to himself." [14, p.413-414]. According to Hegel, punishment favours with a criminal: "The criminal is honoured as reasonable, because the punishment is regarded as containing his own right.

The honour would not be shared by him, if the conception and measure of his punishment were not deduced from his act. The situation is the same when he is regarded as a hurtful animal, which must be made harmless” [14, p. 148].

Hegel, like I. Kant, denies general and particular prevention. However, in legal practice of states this principle has almost never been observed: punishment always pursues a goal to intimidate a criminal – both real and potential. But in practical aspect this doctrine of Hegel has remained problematic. In case of murder the adequate range of punishment is obvious (though also not without problems): life for life. But it is more difficult with, for example, theft, plunder etc. How should crimes and punishments be balanced here? “To look for approximation to equality in such their value, – answers philosopher, – is a case of reason” [14, p. 150]. We can only hope, that in consideration of a high level of modern scientific achievements, we’ll manage to see the way for the solution of this fundamental problem and to find this criterion of equality between crime and punishment.

From the point of view of influence at the phenomenon of criminality, Hegel paid big attention to rationality of state system. Sometimes Hegel is groundlessly presented as a conformist. He is really the author of these words “what is real, is rational”. But these words are very often taken out of context. Because then the thinker says: “But not all, that exists, is real” [14, p. 379].

Hegel recognizes a state as real, if the interests of individuals in it are united harmonically with the interests of society: “The state is real. Its reality consists in the fact that the interest of the whole is realized in breaking down in particular aims. Actuality is always the unity of universality and particularity ... If there is no such unity, then nothing is real, although it could be taken that it exists. A bad state is one which merely exists. A sick body also exists, but it has no true reality. A hand, which is cut off, still looks like a hand and exists, though it is not real. True reality is necessity. What is real is necessary in itself.” [14, p. 379].

If to extrapolate Hegel's formula at modern world's system as a social megaintegrity, then, taking into consideration its deep crisis, there are good grounds for questioning its rationality and reality, and as a result – its reasonability. Thereby, we should look in a different way at terroristic methods on the way of elimination and change of world's system within the scope of global terrorist conflict.

And this thought also finds some confirmation in views of the great philosopher at other related problem – relatively careful attitude to the possibilities of coercion. A person can be compelled to do a thing; it means “his physical and other external powers may be brought under the force of another. But the free will cannot be absolutely compelled ... It can only be compelled when it allows itself to be compelled” [14, p. 141]. “A nation can feel compulsion and still die free, then it is free from that compulsion” [14, p. 411]. It may also be vice versa, as it is demonstrated by modern world order, within which we formally have no enslaved nations, but at the same time more than two thirds of the representatives of this system are at the edge of survival. Unreal insidious character of freedom invokes insidious methods of struggle (terrorism), the primary task of which is directing of society's attention to that fact, so to create conditions for realization of freedom. It's objectively impossible to overpower the inner freedom of a person only with the help of tough actions. Hegel had a very skeptical attitude towards the practice of police state system. He saw main functions of police not in intensified control of private life, as it is today on the tide of activization of antiterrorist activity. The philosopher considered, that “Police control and provision are intended to give the individual the universal possibility of obtaining his wants. It should take care of lighting the streets, building bridges, taxation of daily wants, even of health” [14, p. 267].

Hegel also had quite interesting ideas about anti-corruption struggle: There existed a law in Athens, which prescribed, that each citizen had to report on his life means; and today it is believed, that it's a private question. Unfortunately, humanity hadn't considered the ideas of the great thinker: corruption, eroding separate states, erodes the whole world.

The ideas of Hegel had a huge influence on state's organization of those days. However, their main vector is directed into the future and under the conditions of globalization they have become absolutely actual.

But modern criminology demonstrates dangerous indifference to the investigation of the most urgent problem, concerning qualitative characteristics of the world society, especially concerning its components – characteristics of states. It could create scientific grounds for objectification of the search of criminogenic factors and elements in operation and progress (or anti-progress) mechanisms of the world society.

The essence of the classical school. The papers of Beccaria, Howard, Bentham, Feuerbach and their followers have formed the classical school of criminal law. Besides, different criminological ideas, which were organically linked with criminal law, were also developed within this school. The most important ideas of classical school can be represented in the following positions:

- a person is a bearer of free will, and a crime is the result of free choice; since this person, having moral freedom, chooses evil, he should be punished for his choice;

- the process of decision-making about execution of crime has an exclusively rational character. A person commits a crime only in case, if he considers it to be useful for himself after weighing all pro and contra;

- when punishment becomes more severe, the society makes crime less attractive and this helps to deter people from crimes;

- the art of a lawmaker and his humanism consists in the fact that making punishment more severe is held not according to the principle “the more, the better”, but according to the principle “so severe, that a crime is not attractive” [17, p. 33].

The classical school is reproached, that it, having concentrated on crime, justice and punishment, set aside the personality of criminal (E. Ferri). But that is true only partly. The representatives of classical school were working at the level of the progress of psychological and philosophical thought of that time, because only in the XX-th century it was determined by psychologists, that a person has a very distinguishing

characteristic: to think one thing, to tell another and to act against both the first and the second. These ideas were called classical, because they are constant and form the basis of system of influence on criminality in different countries of the world.

It's not a problem to see, that for a long time on the way of counteraction against crimes the advanced human thought, which actually formed basis of modern criminology, was enough logically concentrated on the individual, psychological mechanisms of his behavior, phenomenon of human free will both in the sphere of law-making and as precondition for committing crimes. Social factors were taken into consideration in terms of their influence on behavior of individual, his relation with state under the conditions of vertical (as a rule, authoritarian) authority.

Nevertheless, the search for possibilities of limitation and narrowing of conditions for committing crimes was partly linked with the character of state and society systems.

But if to proceed from the fact, that the formation of international law is realized on the basis of concordance of state wills and that international criminality is also in a great measure produced by state wills, then do we really have grounds to talk about common roots of criminological science in the sphere of national law and in the sphere of international law? Anyway, this mutuality is not discovered in examined period.

2.3. CRIMINAL SOCIOLOGY. THE BIRTH OF CRIMINOLOGY

Practical consequences of classical school of criminal law didn't legitimate expectations and that's why since the middle of XIX-th century the searches for another ways of influence on criminality began.

It was the position of practical utility of influence on criminality, from which the professor of Roman university, the deputy of Italian parliament from socialist party E. Ferri (1856 – 1928) was undertaking his criminal-legal and sociological studies.

Estimating previous scientific works and criminal practice, Ferri understood, that time of punishment as decisive factor of influence on criminality had passed and it should be searched for new ways of such influence.

2.3.1. The essence of a positive method of E. Ferri

The essence of a positive method in legal science consists in application of experimental surveys during investigation of crimes and punishments for purpose of revival of abstract legal technics with fresh observations, held by anthropology, statistics, psychology and sociology [39, p. 8, 9].

The efficiency of this method in the history of criminology was again confirmed by its election as basic during realization the idea of separation of specific and actual for our time direction in this science – international criminology of terrorism. In fact, practical results of usage of related sciences in studying terrorism have actually indicated at actual presence of such a direction in the system of criminological science. In addition, practical results were possible, because the search and investigation of terrorism determinants were realized there, where obviously “the habitat” of this crime was seen – in international relations. In such a way, the main difference consists in the fact that sciences, which saturate and enrich purely legal vision of terrorism, are international in essence and they are called for investigation of corresponding sides of global society’s life. And only due to the instruments of enough wide spectrum of related to law sciences the global society is defined as strategic determinant of terrorism.

The essence of Ferri’s concept consists in the approach to crime as a product of three types of natural factors (anthropological, physical and social). And social factors (“factors, which can easier be changed and corrected by a lawmaker”) are preferred [39, p. 193].

The positive approach brought expected result – creation of synthetic science, which was called by E.Ferri a criminal sociology. It was enough definite separation of the independent study about criminality, its reasons

and measures of influence on it, which was called by Topinar and Harofalo criminology.

Ferri drew the single conclusion, that a criminal is not a normal (socially) person, that criminality too little depends on punishments and that imaginary freedom of will is a subjective illusion and as a result he proposed that criminal law should essentially be amended. It should be transformed from vengeful weapon for moral guilt into weapon of protection of the whole society, just like in case of epidemic disease. Ferri worked out the concept of social protection, the essence of which consists in the fact that the main energy of society in fight against crimes should be concentrated not on general and particular prevention (through intimidation and re-education), but on protection from socially dangerous elements. Under these conditions old instruments of protection (deprivation of liberty and exile) gained a new sense: the main goal of deprivation of liberty is not intimidation, but isolation, deprivation of possibility to damage society.

Ferri negatively treated the death penalty, believing that it is in conflict with morality of society.

Ferri was the first to treat criminality as system phenomenon (peculiar alive social organism): basic and typical crimes cause famous crimes as reflex, because intensification of serious and more frequent crimes themselves cause the bigger number of cases of insult and opposition to authority, false evidence, offense, violation of watch rules, escapes etc.

Ferri formed the law of saturation the society with crimes. In this way he noticed that vagrancy disappeared with the change of social conditions (vagrancy as a phenomenon appeared as a result of Thirty Years' War in Germany in XVI century). And in XIX century blasphemy (without any punishments) due to rising of cultural level also disappeared.

Study about substitutes of punishments showed us the formation of the sphere of scientific cognition – the sphere, which is out of the frames of criminal law. The essence of punishment's equivalents, in Ferri's opinion, consists in the fact that legislative acts should direct the development of social organism so that the activity of people would be directed at illegal way and their possibilities could receive free satisfaction. In addition, the

wisdom of statesmen, not confining itself to enforcement of penalties, should help to look for the reasons of crimes, to exterminate them, to give them another direction or to weaken them [39, p. 247].

Ferri had the whole number of factors, which were referred by him to equivalents of punishment. Among them – limitation of monopoly, freedom of migration, minimization of customs tariffs etc [17, p. 67, 68].

Unfortunately, these valuable items are not enough used by modern international law. Having no adequate influence and help from criminology, international criminal law and especially international antiterrorist law very often act as instrument of revenge for moral and physical damage. At the same time it's obvious, that the investigation of system of punishment's substitution in international criminal law is quite possible with the help of such powerful international sciences as sociology of international relations, geopolitics, geoeconomics etc. Firstly, we have every reason to consider, that only methodologically updated criminological science is able to develop international equivalents to punishment, and, secondly, the efficiency of such equivalents in international scope significantly exceed the efficiency of those, which were suggested by E. Ferri.

“A man does not change his identity; and no penal code, whether mild or severe, can change his natural and invincible tendencies, such as inclination to pleasure and persistent hope of impunity” [39, p. 241].

But punishment can't neutralize social factors, such as economical and political crises, dissolution of morals and as a result they continue to generate crimes, in spite of cruelty of criminal punishments. That's why social environment has to be improved for some progress in decrease in the crime rate: social diseases should be cured by social means [39, p. 231].

Life confirms legality of Ferri's conclusions in this part. Particularly, the practice of fight against terrorism shows us leveling of factor of criminal punishment, especially under conditions of mass use of suicide terrorists. In addition, practice points out importance of social motivation: the higher motivation is, the lesser role punishment has.

2.3.2. The anthropological approach to the study of a criminal

Alongside with sociological direction of criminological thought's development the anthropological approach has also won the recognition thanks to titanic efforts of Italian scientist Cesare Lombroso (1835 – 1909).

Scientific conclusions of C. Lombroso are based on analysis of 383 skulls of dead people, 3839 skulls of alive people; altogether he explored and examined 26886 criminals, who were compared with 25447 students, soldiers and other respectable citizens.

Scientific luggage of Lombroso was composed also from researches mediaeval criminals [17, p. 47].

With such anthropological searches of criminality's determinants, Lombroso stimulated powerful boom of criminological investigations, first of all of sociological direction.

The ideas of connection between body and soul were suggested and developed since ancient times. Some statements about that we can find in papers of Hippocrates, Plato, Aristotle, Thomas Aquinas. By the beginning of the XIXth century such science as physiognomy was formed on that basis. Physiognomy is a science about localization of different mental faculties in different parts of brain, and these faculties can be examined through valuation of external skull's shape.

Researchers F. Gall and then G. Voisin, Clef, Clerk, Casper, Broc, Lowern made enough interesting investigations of criminal's skulls and their physiognomies in the first part of the 19th century.

All these scientific ideas and works were synthesized and developed by Turin professor C. Lombroso, who tended to create new science – criminal anthropology.

The main idea of C. Lombroso consisted in the fact that a criminal is a special natural type, rather sick than guilty (something like insanity). A criminal doesn't become a criminal, he is a born criminal. This is a peculiar biped predator, who can't be reproached for blood thirstiness; he must be exposed according to a number of features and isolated or liquidated.

Lombroso detected a fair quantity of anomalous and degenerative features, which compose anthropological peculiarities of a criminal.

He said that “born” criminals had anomalies of skulls, which resemble skulls of predatory prehistoric human races. Criminal’s brain is approximated to the brain structure either of human embryo or of an animal. They have inherent excessive hairiness of head and body or early alopecia, uneven position of teeth (sometimes in two rows), excessive growth of butter teeth, squint and facial asymmetry. Criminals have straight nose with horizontal base, of moderate length, not very prominent, often a little bit deflected and enough wide. Criminals with red hair can be met very seldom; generally they are dark- or brown-haired. Criminals get wrinkles two or three times earlier and oftener than normal people, with dominance of malar wrinkle (in the middle of a cheek), which is called by the scientist a wrinkle of vice. Their hands are too long – the length of stretched hands of a “born” criminal exceeds his stature (height). On the basis of these and other common features of criminals Lombroso drew typology of criminals. Each type of criminals (murderer, thief, rapist, and fraudster) has its own peculiar features.

Lombroso’s views, stated in the first edition of his book “Criminal man” and his recommendations were a little bit naïve because of a lack of legal preparation. However, he considerably changed his views and specified them according to sociology of crimes under influence of his young fellow-citizen Enrico Ferri. He didn’t state anymore, that the problem of crimes is settled for him and besides: firstly, he rejected term of criminal type of a person and accepted the term a “born criminal”, which was proposed by E. Ferri. Secondly, Lombroso admitted the significance of role of social factors as reasons of crimes. Thirdly, he had to admit, that a born criminal is not sure to commit a crime.

It’s known, that Lombroso’s anthropological theory of crimes was severely criticized. But he was protected by his like-minded persons, including E. Ferri, who presented quite persuasive counter pleas:

- not one feature has decisive importance for rating people as criminals (sometimes a normal person can have such a feature), but the whole scope of such features;

- “very often profanes attach importance to the features only because they burst upon the eyes, but from scientific point of view these features don’t mean that”;

- “sometimes criminal instincts are expressed in latent form and as a result they escape from criminal laws. Instead of robbing on a traffic road, people can be robbed with the help of stock-jobbery... In such a way, a person can commit no robbery, no murder, no rape, but at the same time he can be not normal”;

- “we don’t know, if a person, who has aforementioned anthropological signs and hasn’t yet committed a crime, will stay not criminal to the rest of his life”;

- “we don’t know, if a person, who has these anomalies, is really criminal. Everyone knows, that there are many serious crimes, which stay undetected and their criminals stay unknown” [39, p. 67-69].

The significance of Lombroso’s investigations. Modern stereotype of perception of Lombroso’s scientific inheritance usually has negative character. This is not enough correct. Because he must be given the credit for his scientific scrupulosity: his ardent critics didn’t make even the tenth part of the investigations which he made. In such a way, we can talk about the soundness of Lombroso’s scientific statements in criminological science. We can quite reasonably consider that criminology owes much to Cesare Lombroso with its appearing and formation. He established system of studying of criminal’s personality; it means that he opened global direction of scientific search. In spite of all this it was human character of his theory of a criminal that was unconditional.

Investigations of C. Lombroso were very popular among practicing people. His anthropological researches underlay polygraph, which was called by Lombroso as sphygmograph.

His works in the sphere of criminal graphology also appeared to be very useful. Descriptions of tattoos by Lombroso are very actual up to now. The same we can say about his analyses of criminal slang.

As famous German criminologist Schneider noticed, despite the taboo on Lombroso's theory, it doesn't lack followers. Russian criminologist and practical worker A.I. Gurov also treats investigations of Lombroso with respect: "Of course, it sounds strange, that the brain of a criminal weighs 30 grams less than the brain of a normal person. Such data were received after weighing brains of 400 guillotined criminals and 200 citizens after natural death. But another fact is even stranger. Nobody, except Lombroso, has made such experiments, though they unanimously declare about absurdity of his conclusions" [15, p. 17].

Differentiating the value of Lombroso's anthropological theory, first of all with the aim of extending the argumentation basis of sociological direction and defining the measures of criteria made in it, we should fix insignificant international-criminological implementation in the part concerning critical conclusions. In opposite case, for example in the sphere of investigation of terrorism, we wouldn't have statements about definite anomalous psychotype of terrorists and terrorism wouldn't be united by some scientists to some cultures or religions. The causality of this criminal phenomenon would be mainly seen in international actions at global level, such as international financial speculations, which are able to destitute whole nations and destroy states under the conditions of globalization.

In such a case it becomes clear that the problem is in qualitative status of criminology to a large extend, in correspondence of its methodology and scientific tools with global scopes of real determinants of international crimes.

2.3.3. The fundamentals of the radical trend in criminology

The context of modern terrorism, or global terrorist conflict, the criminology of which is the main subject of this book, forms political

confrontation for the purpose of balance of economical and social interests in correlation of national and global levels. The goal by itself, which underlies terrorist conflict and which is directed at change of constitutional state's order and reorganization of world's system, has radical political character. In this connection it would be inconsistent to pass over the appropriate direction of development of criminology, taking into consideration that the demand for left radical sort in society and in practical politics increases under conditions of crisis.

The initiators of labour movement Karl Marx (1818 – 1883) and Frederick Engels (1820 – 1895), creating the model of society which had to correspond to justice and brotherhood, paid much attention to the questions of fight against crimes. They enriched criminological science with the radical conception of influence on criminality. This conception distinguished itself, first of all, in the macro level of measures and it fully corresponded with the globality of social problems, which have place under modern conditions of world crisis. Secondly, their conception has its own distinctive feature – revolutionary reformism that corresponds to categorical tonality of terrorism striving to position itself as antipode to modern capitalist world system with its crisis processes and defects, including transnational organized crimes and other types of international criminal offences.

The founders of the theory of communism took schemes of social relations in primitive societies as a model, they tried to model the society of future on the basis, where crimes would disappear naturally because of equality and unnecessary of state coercion.

K. Marx and F. Engels enough deeply and objectively analyzed reasons of crimes in capitalist society and draw a conclusion, that the main their reasons are: social inequality, labor-people exploitation, which causes unemployment, extreme poverty and misery, low level of education in working environment.

In the paper “Wage-Labour and Capital” (1847), formed on the basis of course, K. Marx exposed the essence of social inequality: “A house may be large or small; as long as the neighboring houses are likewise small, it

satisfies all social requirements for a residence. Let there arise next to the little house a palace, and the little house shrinks into a hut... Our wants and pleasures have their origin in society; we therefore measure them in relation to society; we do not measure them in relation to the objects which serve for their gratification. Since they are of social nature, they are of a relative nature” [26, p. 446].

Under conditions of the Ukrainian reality, where civil control is practically absent, such a social measure is deformed *ad absurdum*. As a result, the level of luxury and wealth of separate citizens on the background of impoverishment of general body of people has reached the measure, which is out of common sense.

F. Engels in his book “The Condition of the Working Class in England in 1844” developed the conception of “social war of each against all” of T. Hobbes, and this conception reflected the essence of capitalistic society, based on cruel exploitation of one person by another: “The social war, the war of each against all, is here openly declared... and the end of it all is the fact, that a few stronger, the capitalists, seize everything for themselves, while to the mass of the weak, the poor, scarcely a bare existence remains... Want leaves the working-man the choice between starving slowly, killing himself speedily, or taking what he needs where he finds it – in plain English, stealing. And there is no cause for surprise that most of them prefer stealing to starvation and suicide” [41, p. 264, 248].

F. Engels established, that working people are constantly nervous and it impedes their self-control. The reason of it, except drinking, is “dependence upon all possible accidents and chances and impossibility to do something to make their status better” [41, p. 336].

Deep socio-psychological investigation of influence of unemployment on crimes was a breakthrough in criminological analysis of causality of crimes. Afterwards many papers in the West were dedicated to the studying of this phenomenon and they confirmed the correctness of Engels’s conclusions. He, particularly, concluded, that there is a direct connection between the level of unemployment and the number of prisoners.

Compulsory work is another source of the workers’ demoralization.

The objective estimation of urbanization processes was also given in the paper of F. Engels "The Condition of the Working Class in England in 1844": great cities create supplementary conditions for quicker progress of evil. It is in the great cities that temptation of vice is spread. It is here that guilt is encouraged by the hope of impunity, and living in idleness is fostered by the frequency of examples [41, p. 353].

There is, therefore, no cause for surprise if the workers, treated as brutes, actually become such; or if they can maintain their consciousness of manhood only by cherishing the most glowing hatred [41, p. 352].

In such a way, the sociological analysis brings F. Engels to the conclusion about inevitability of crimes under definite life conditions.

When K. Marx in 1959 examined a "Blue Book", presented in English parliament as "Statistical Abstract for the United Kingdom in each of the last fifteen years from 1844 to 1858", he made a very interesting collation. The bigger was the wealth of the United Kingdom, the bigger was the number of paupers and the growth rate of crimes also was becoming higher (criminalization of population). The analysis brought the thinker to a deplorable conclusion: "There must be some thing rotten in the very core of a social system which increases its wealth without diminishing its misery, and which increases the number of crimes even more rapidly than the number of populations" [27, p. 515].

In his paper "Death Penalty" Marx on the basis of statistical data convincingly shows, that punitive sanctions under conditions of "rotten social system" can often be counter-efficient.

It is confirmed to a large extent by modern practice of international antiterrorist law, which concentrates its criminal sanction on terrorist activity itself. Such law only strengthens motivation of organizers and executors of terrorist acts and as a result it adds more proneness to conflict in terrorist confrontation.

K. Marx disputes the morality of the idea of general prevention and puts a very deep philosophical question: "What right do you have to punish me for the improvement or intimidation of others?" [28, p. 530]. Because it's general prevention, on which criminal punishment has been based for

centuries and still is. Marx gave many historical (statistical) arguments, referring to the thoughts of Kant and Hegel. In “Philosophy of right” Hegel says: “Punishment is the right of the criminal. It is an act of his own will. The violation of right has been proclaimed by the criminal as his own right. His crime is the negation of right. Punishment is the negation of this negation and consequently an affirmation of right, solicited and forced upon the criminal by himself” [28, p. 530].

K. Marx pays attention to the conclusions of A. Quetelet about criminogenicity of social conditions of bourgeois society: “So, if crimes observed on a great scale show, in their amount and their classification, such a regularity as natural phenomena, if as Mr. Quetelet remarks, “it would be difficult to decide in respect to which of the two (the physical world and the social system) the acting causes produce their effect with the utmost regularity” – is there not a necessity for the deep alteration of the system that breeds these crimes, instead of glorifying the hangman who executes a lot of criminals to make room for the supply of new ones?” [28, p. 532].

F. Engels took the same view, pointing out at the necessity of radical social reforms: “We eliminate the contradiction between the individual man and all others, we counterpose social peace to social war, we put the axe to the root of crime – and thereby render the greatest, by far the greatest, part of the present activity of the administrative and judicial bodies superfluous. Crimes against property cease of their own accord where everyone receives what he needs to satisfy his natural and his spiritual urges, where social gradations and distinctions cease to exist” [42, p. 537].

Unfortunately, the problem of making social peace (this peace according to Marxism was called for substitution of criminal repression) became very actual and assumed a global character. That’s why criminological analyses should also be built respectively.

K. Marx and F. Engels saw the main determinant of criminality in capitalist system of society and they reasonably believed, that criminogenicity proceeds from social conditions of bourgeois society. Modern world and international order are based on postulates of the same

market capitalism, the “rotten” essence of which was disclosed by K. Marx more than a century and a half ago. Then why is modern criminology so indecisive? To ascertain the criminogenity of capitalist world order and the criminogenity of globalization modern criminology should be “rearmed”, it should gain new qualities, because it has to examine causality of international crimes within the scope of international law, which is nominally based on the principles of good will of the states – members of international society. This is in the first place. Secondly, the global capital has gained a new feature since the times of K. Marx: it adapts to social standards. That’s why in order to expose the mechanisms of international crimes, which are produced in the “womb” of this capital, it may be the lack of the synthetical character of the international criminology itself. Probably, we should raise the question of reasonability of formation of specialized criminological directions (geopolitical criminology, geoeconomical criminology etc.) and appropriate methodologies.

2.3.4. The development of a statistical method in criminology

The first statistical studies in the sphere of criminology confirm the conclusions of sociological criminological thought and especially its radical direction. These researches are also in tune with the main ideas of classical school, although the vitality of some of them was perceptibly broken.

The first criminal-statistical yearbook was published in France in 1827. Its author was the Minister of Justice of France Andre-Michel Guerry (1802 – 1866). He established the regularities of age distribution of crimes (the peak was in the group of age 25-30 years).

But nevertheless, it is Lambert Adolphe Jacques Quetelet (1796 – 1874), who is considered to be the founder of the statistical method in criminal sphere. Initially he put the sociology basis simultaneously with O. Kont and that’s why he resorted to the possibilities of statistics.

Some time later Quetelet used the same statistical method for studying regularities of crimes. He disclosed its definite stability and it drew a wide response. In fact, annually the same number of murders is committed in the same country.

Developing the researches of Quetelet, his followers Mauri and Poletti defined, that the number of infringements on people vary every year not more than by 4 percent, and the fluctuation of crimes against property reaches not more than 2 percent. They proved that there is a law, according to which the fluctuation of number of crimes can't exceed 10 percent [39, p. 212].

Not only the theoretical idea of free will was put under the question. The notion of sin became also disputable, because the actions of a person have place under the influence of laws, which don't depend on the will of a person.

The main fundamental conclusion of Quetelet consists in the fact, that all crimes committed in society are the same phenomenon, which develops by definite laws. The attempt to get rid of crimes with the help of severe punishments is doomed. It's necessary to disclose the laws of progress of crimes and the factors, which determine its increase and decrease. It would be possible to influence crimes on the basis of these laws.

In fact in compliance with the radical direction of criminology Quetelet recommends: "If we change social order, we'll see the change in phenomena, which were constant before" [39, p. 213].

The grandiose modern social experiment showed the confirmation of this: crime rate in socialistic Germany became in some decades almost ten times as high as in the capitalistic Germany [17, p. 37].

It looks like we are the witnesses of another – global experiment, where the increasing wave of transnational crimes and terrorism, which is produced by capitalistic world system, can be stopped only with the help of its essential reconstruction or even replacement.

Quetelet developed famous theory of factors showing that practically all phenomena in society are interrelated (social environment, family relations, religion, professional duties etc).

On the basis of analysis of social causes Quetelet makes conclusions: “There is no doubt, that to change regrettable results, showed in annual chronicles of murders and suicides, it would be enough to change the causes, which govern our social system ... But for realization of noticeable changes it should be the influence on masses, but not on particular personalities. And only future statistics will show us, to what extent these reforms are useful or harmful” [19, p. 91].

It should be said, that although the Quetelet’s conception of causes of crimes combined sociological and anthropological ideas, the anthropological one are very often suppressed by researches, so it would be easier to put his theory in Procrustean bed of definite (sociological) scheme.

Foretelling somehow C. Lombroso, A. Quetelet enough definitely spoke on the connection between a body and a soul, stressing first of all the factor of heredity in criminality. In such a way, Quetelet put free will in quite tight frameworks of social conditions and physical nature of a person.

Quetelet tried to deduce a formula for mathematically exact calculating of level of inclination of a definite person for commission of crimes on the basis of probability theory. And the term “dangerous condition of a person”, introduced by E. Ferri, was based on these investigations.

Many aspects of Quetelet’s statistical approach were later developed in the imitation theory of G. Tarde, stigma theory etc.

However, as it became clear, the statistical method in criminology shouldn’t be interpreted only in terms of mathematics. Statistics gives real results, if it proceeds from social understanding of the subject. That’s why statistical characteristics of state crimes look like very absurdly in comparison with international crimes on a number of occasions.

Without any dispute, statistics is one of the effective means of studying of international crimes. But the statistics itself and using of its results have some peculiarities in this sphere. They consist, first of all, in the fact, that statistical data very often do not have direct connection to the crime rate. The results of statistical method generally become efficient only

in their complex analysis with the results of the other scientific directions of international criminology. For example, the attempts in the 90-th to trace the intensity of terrorism with the help of counting of the number of terrorist acts led to nothing. For terrorism as asymmetric crime, statistics is also to some extent asymmetric. Here the danger of crimes shouldn't be connected with the number of terrorist acts and the amount of dead people, although they, of course, are very important. The global danger, which proceeds from terrorism, is defined by the reality itself of threat of all-round terrorist acts, the simplicity and accessibility of this means of struggle, and above all – the inexhaustibility of an arsenal of criminal actions and vulnerability of offence objects (public at large).

In such a way the impressive statistics of growth of opium production on the territory of Afghanistan since the beginning of antiterrorist coalition in this country (from 320 tons in 2002 to 8200 tons in 2008) should be least of all connected with the criminality of a state and society. It's enough to look attentively at economic strategy and geopolitics of the West and of the USA in Central Asian region, so we could see the true reasons of drug-boom. We can't watch without any regrets the titanic efforts of special services and law-enforcement agencies of all states of the world to influence the end bodies of drug business and at the same time tolerant attitude to semi-legal opium plantations and production of thousands tones of opium.

The states of the same antiterrorist coalition cannot understand the real determinants of drug-boom – the absence in Afghanistan of commercial and farm productions and appropriate economic and agricultural policies. It's clear, that Afghan peasant would better sow wheat and barley rather than poppy, as it's at least safer. But appropriate socio-economical conditions should be created for that.

Moreover, the Russian scientist V. Gracheva denotes the interest of some western special services in profits from drug business⁵.

⁵ See: Грачева, Т. В. Невидимая Хазария. Алгоритмы геополитики и стратегии тайных войн мировой закулисы / Т. В. Грачева. – Рязань : Зерна, 2009. – С. 21-62.

As we see, international statistics as method of criminology can be efficient only in complex of results of the other international sciences which, actually, make up the international direction of criminology.

2.4. THE BIRTH OF CRIMINOLOGY. THE CONSIDERATION THROUGH THE POSITIVISTIC AND NEOCLASSICAL APPROACHES OF THE SCIENCE ABOUT CRIME

2.4.1. Positivist school of the formation of criminology

In 1884 the monograph of a well-known Italian lawyer Raphael Garofalo was published in Turin (1852 – 1934) with the significant name "Criminology".

Garofalo, developing the legal aspects of a new scientific branch in the direction of positivistic school, tried to formulate a sociological concept of a crime. As a natural crime Garofalo understood the acts contradicting the main social feelings of people (honesty and compassion) which can't be treated differently in any civilized society and which must be punished by criminal penalty. It is interesting that in a wild African tribe of Chamai (hunters for skulls) customs provide death for two crimes: lying and stealing.

Garofalo also paid some attention to questions of criminal anthropology.

Garofalo's "Criminology" consisted of three parts: "Crime", "Criminal", "Repression".

The author divides all criminals into two groups: the criminals whom the punishment may keep from committing a crime, and those for whom the threat of punishment has no significant deterrent effect.

Garofalo subjected to criticism the lack of a legal regulation of imprisonment of dangerous criminals, especially it concerned the bail bond.

Concerning Lombroso's anthropometrical researches Garofalo noted that studying, on the one hand, anthropological factors of a crime, defining organic and mental character of the criminal and influence of age, sex, civil status, profession etc. on different crimes, and on the other hand – the scientific studying of dangerous classes of society may give to judicial police and the attendants of justice new and more infallible supportive applications for search of the guilty.

In the second edition of "Criminology" Garofalo developed a rational system of punishments. He divided criminals into four groups:

1. The murderers being characterized by moral insensitivity and instinctive cruelty.

2. Rapists, or impulsive criminals, being characterized by the absence of the feeling of compassion and the existence of prejudices concerning revenge, duty, honor, etc.

3. The criminals deprived of feeling of honesty. In case of committing by habitual criminals from this group of theft, fraud, arson, forgery, extortion, they should be sent to a shelter for mad criminals if they are mentally ill or epileptics, otherwise – deportation.

4. Criminals guilty of mutiny, rebellion, refusal of obedience to power. They should be sentenced to imprisonment for an indefinite term.

This idea of indeterminate sentences gradually had been implemented in the USA since 1887. At the Geneva Congress of Criminal Anthropology Garofalo suggested the original idea: «It is necessary to divide criminals into two big categories: those who should have never entered the prison, and those who should have never been out of it. For casual criminals the prison is useless, the penalty or conditional condemnation is quite sufficient. The prison is insufficient for habitual criminals, if withdrawal from society doesn't proceed uncertain time, i.e. until there are proofs of the valid correction» [43, p. 343].

Garofalo paid considerable attention to reparation, saying that the compensation of damages could be the equivalent of the sentence [39, p. 524].

Garofalo was a supporter of the death penalty. He, as a practitioner, argued that if the death penalty would be removed from the criminal law, its restraining strength becomes significantly reduced [44, p. 87]. His idea was greatly sharpened by E. Ferri proving that a deterrent effect on crime has not the fact of establishing of the death penalty in law, but the reality and very large scale of its application. With little use of the death penalty (8-10 death penalties a year) its effect is only negative [39, p. 546].

In the center of attention of criminological researches of Garofalo there is an individual, a personality. "Crime" is considered by the scientist as a product of extralegal socially dangerous actions of people, "Criminal" – as the specific subject of such actions, and in "Repression" the individual arises as an object of the influence of the society and the state.

The content of researches of R. Garofalo once again confirms that the criminology as a legal science has developed around the personality and his behavior in a particular society.

2.4.2. The theory of the social disorganization

Radical ideas of positivists about refusal of criminal law and replacement of it with science of criminal and anthropological or criminal and sociological character appeared unacceptable for many scientists.

The new, consensus concept which was created in Italy in 1889 in the separate branch of a science, was grounded on three bases: 1) preservation of the independence of criminal law under condition of its scientific updating; 2) causality, but not fatality of a crime, and therefore denial of anthropological type of the criminal; 3) social reform as a state duty in its fight against crime [39, p. 22].

Supporters of this direction were united by moderate conservatism, conviction in necessity to keep criminal legal mechanisms of impact on crime and certain scepticism to anthropology. The common features with

positivism they had was the recognition of insufficiency of legal and dogmatic studying of crime (a classical approach), the recognition of necessity of studying of the world of criminals.

A distinctive feature of this group of scientists was desk work style and logical method.

The exception here was a Belgian law professor Adolf Prins⁶.

He divides a sociological approach to the analysis of crime which was developed by his compatriot A. Kettle. Many of his ideas are conformable to Marxist criticism of bourgeois society, the content of his work «Crime and Repressions» in some cases coincides with F. Engels's book «The Condition of Working Class in England».

Much attention was paid by A. Prins to the principle of systemic influence on crime and, therefore, he developed a three-section system of measures:

- social measures of prevention;
- judicial measures;
- penitentiary measures [31, p. 208].

A. Prins considered humanity as a huge organism, and crime as a form of deviation from the normal activity of this organism: «The crime origins from the very elements of humanity, it isn't transcendental but immanent; in it it is possible to see the known degeneration of the social organism... The eternal generator of this social evil is the fact that the world has huge appetites which are not able to satisfy» [31, p. 6, 7].

A. Prins enjoyed great prestige among the scientific community. His ideas had a significant impact on the development of criminological theory and practice. He elaborated many of the ideas of first criminological sociologists which studied crime. Penitentiary studies of A. Prins have not lost their scientific value even today.

A. Prins managed to combine perfectly the state activity and the scientific work. Probably, that was the reason of the fact how he solved a

⁶ A. Prins was born in 1845 in Barcelona, the Doctor of Law. Worked as a barrister. In 1884 was the main inspector of the prisons in Belgium.

crime phenomenon, having come to the conclusion that it would be unlikely for mankind to ever get rid of this socially dangerous phenomenon. The answer to it can only be the development of measures of protection against crime.

The global approaches to assessing human society and producing of crime by the world society seems to be useful from the point of view of criminology concerning international crime.

These approaches form the basis for the studies of criminality of globalization and, therefore, set new qualitative characteristics of actually criminology.

Criminal policy of F. List. The Austrian professor Franz von List (1851 – 1919) was one of the most erudite lawyers of his time. In addition to the criminal law, he was interested in international law and wrote the book «International Law in a Systematic Description».

List proceeded from a single science of criminal law. The essence of his concept consists in considerable expansion of the classical framework of criminal law. In addition to legal dogmatic, a unified science of criminal law integrates criminology and criminal policy. The study of crime and criminal is the task of criminology. The development of criminal and legal measures of fight against crime is the purpose of criminal policy.

In his turn, List divides criminology into a number of branches – criminal biology and criminal sociology. The first one was designed to investigate the crime as a phenomenon in life of an individual. As constituents of criminal biology (anthropology) the criminal somatology and criminal psychology may be.

On the contrary, the study of crime as a social phenomenon, the study of its manifestations in society and determination of the social reasons of its appearance would be objective of criminal sociology [23, p. 72].

Under the criminal policy List understood the situation, in accordance with which the state had to fight against crime by means of punishment and statutes related to it [24, p. 1].

In contrast to the criminal policy which researches a separate criminal, the objectives of social policy the scholar saw in eliminating, or at least limiting, social factors of crime.

The theory of criminal punishment also belongs to the most fundamental developments of List.

Although List was accused by E. Ferri of the desk style and excessive legal dogmatics, one must admit the originality of his scientific concepts and undoubted scientific value of his ideas about the need for cooperation of criminology and criminal law. List defended the need to maintain the criminal law doctrine, and showed, in which direction the science of criminal law had to develop.

Philosophy of punishment of G. Tard. It is impossible to ignore criminological researches of the known French sociologist professor Gabriel Tard (1843 – 1904).

Developing the logical and psychological direction in sociology, Tard formulated the concept of public consciousness (social mind).

In the field of sociology Tard developed a theory of imitation. «The social organism in its essence is imitative, and imitation plays a role in societies similar to heredity in physiological organisms» [35, p. 3].

Tard quite thoroughly worked out the theory of social influence. Analyzing the mechanism of the influence of environment, he, unlike the fetishistic usage of this term, comes to the conclusion that the elementary social fact is concluded not within one brain, but in contact of several minds.

Any influence of the social environment on the individual breaks up into numerous mental interactions between two individuals. In the mind of one and the same person a set of mental effects is called a public pressure. And the term «social coercion» is not quite accurate, because a person perceives the influence of others through the prism of his own interests, and so he always does what fits his taste. So before you try to make a person «good», it is necessary to ensure that he really wants to be good, that this corresponds to his interests [36, p. 79].

Developing statistical ideas of Kettle, Tard found out that crime is not so constant. It is constantly growing. Civilization destroys some types of crime, which it has created, and creates in their place the new ones. He convincingly proved that even in an unstable phenomenon regularities may be found [37, p. 117].

Tard thoroughly investigated the relationship between crime and lie. In his monography «Social Logic» (the part "Heart") he argues that the true social purpose is the increase of the sum of love and reduction of the sum of feeling of hatred – the gradual growth of the social heart [35, p. 313-363].

G. Tard in his works gave a powerful impulse for development of the sociological school of criminology.

Gabriel Tard showed the human society as a living organism which was gaining the new qualities, contrary to the sum of social and psychological characteristics of the people making up that society. G. Tard's developments are useful for criminology of the international level by their cognition of state society determining the behavior of state in the international relations. They can give concreteness and persuasiveness to the ideas of Bustamante, Donedye de Vabra, Vespasian Pella concerning the criminal liability of state because of its extra-legal actions as a product of expression of a particular society, which operates in the public shell.

The scientific heritage of the scientist also forms a basis for criminological studying of the international society as social integrity of megalevel in dynamics of development of which, among others, certain forms of criminality is formed.

Thus, the influence of G. Tard's ideas on the formation of criminology concerning international criminality should be ascertained.

Anatomy of a public organism of E. Durkheim. Emil Durkheim (1858 – 1917) was one of the founders of the French school. He was a supporter of the method of an objectivism though wasn't the classical positivist: he wasn't afraid not only to create the theory, but also safely suggested the directions of social transformation. Durkheim revealed the contradiction between work and the capital; pointing to injustice of the

social system, he paid attention to constant susceptibility to crises and disorganization of capitalist system.

The crime wasn't the main object of research of the scientist, however he in details analysed the anatomy of a public organism, revealed social factors than can both constrain, and generate crime, and put a number of legal and criminological problems («About the Division of Social Activities»).

However, he did not share the classic postulates of positivism: only to observe and ascertain the facts. He considers the actual search of solutions to problems, in particular, on the basis of the analysis of mechanisms of moral of society.

Durkheim's work «The Method of Sociology» (1896) had a big public response, because the author recognized crime as the normal social phenomenon. But, in contrast to C. Lombrozo, he points out that the culprit is not an anti-social phenomenon and, therefore, a crime should not be considered as evil.

The next Durkheim's work was his book «Suicide» (1898), in which he shows the factor of social disorganization of society, i.e. anomie.

Durkheim considered a crime as a social immorality of society, which is punishable, that is a normal part of social life: «The social fact is normal for this social type viewed in a certain phase of his development, when he occurs in the majority of belonging to this type societies, taken in corresponding phase of their evolution» [11, p. 70].

Durkheim argues that a crime doesn't lose a condition of a constant component of any society, so, «there is no phenomenon representing more doubtless symptoms of normality, because it is closely connected with conditions of collective life» [11, p. 72]. He compares the crime with the disease, with the pain that is unpleasant, but it is nevertheless a function of normal physiology.

According to Durkheim, crime is a normal thing without which society would be impossible [11, p. 72]. He confirms this thought with the convincing analysis ending with the following a little paradoxical conclusion: «It is not necessary to mislead yourself; to place a crime in

number of the phenomena of normal sociology means not only to recognize it as phenomenon, though regrettable, but inevitable, following of irreparable perversity of people, but also to argue thus that it is a factor of public health, a component of any healthy society... The crime, therefore, is necessary, it is connected with the main conditions of any social life and thus it is useful, as conditions, with which it is in close connection, are in turn necessary for normal evolution of ethics and right» [11, p. 72]

At the same time Durkheim sees as a natural fact the existence of borders of crime and considers that control over its level is possible, because «existence of crime is a normal fact only when it only reaches, but does not exceed a certain level for each social type» [11, p. 72]. The author offers the certain factor inherent in the majority of countries as an equivalent of measurement of crime.

Probably, it is fair. But how is it possible nowadays, in the conditions of globalization, to measure "norms" of international crime for social type of society of the world level?

Here other criminological "equivalents" should work. There is no doubt in the fact that crime is extremely politicized and the highly radicalized. These factors are those which are in many respects embodied in terrorism, and form conditions of impossibility of the further existence of a global society in a particular format.

And it is supported by Durkheim's thoughts when he proves a moderate approach to use of criminal repression. «Human institutions can't be based on delusion or lie: otherwise they couldn't continue their existence. If they weren't based on the nature of things, they would find in it the resistance impossible to overcome» [12].

But violence is not the only source of order. Appealing to the moral influence on crime, Durkheim opens criminological important category of public consciousness. To clarify the causes of crime there is a need not to investigate the status of individuals, but the conditions in which there is «a social body as a whole». «The totality of beliefs and sentiments common to the average members of the same society, forms a certain system having its own life; it is called a collective, or shared, consciousness. Without a

doubt, it does not have the sole authority substrate; by definition, it is dispersed throughout society, but nonetheless, it has specific features making it a separate reality» [10, p. 63].

The facts of social life may apply external compulsion to an individual. The phenomenon of "soft" (invisible, but flexible) social coercion is the basis of Durkheim's concept of influence on crime.

It is important that these analyses of the great sociologist create the grounds for a special approach to the estimates of «the social body» of the international community. The general consciousness, formed on the basis of the international society, has as its substratum the other, rather than the state, formation which gives rise to some form of impact on the social balance. Consequently, the less morals and right take into account the factors of global social balance, the more radical (persistent) their manifestations become, transforming up to terrorism.

Durkheim's conclusions in the sphere of research of an anomy give the grounds to a special criminological approach in determining of the reasons of the crime arising on the background of the international «social body». The characteristics of public disorganization identified by Durkheim are actual for understanding of tendencies being felt in society.

Durkheim considers that society represents not the simple sum of individuals, but a system formed from their association, and creates the reality in the true sense allocated with special qualities.

The quality of society, its cohesion depends on the level of solidarity in it (mechanical and organic). If there is an absence of solidarity, especially organic which is based on the harmony of individual and public consciousness (social disorganization), there are some negative phenomena, first of all crime. In such situations society temporarily loses the ability to influence the person. The previous hierarchy is broken, and the new one isn't created. Until social forces do not come to a state of equilibrium, any regulation is untenable. No one knows exactly what is possible and what is not possible. Public opinion is also not able to restrain individuals which see no limits to their actions. General state of disorganization or anomie is compounded by the fact that the passions least

agree to submit to discipline at a time when it is most needed [13, p. 335, 336].

The anomie comes, when «our beliefs were broken; traditions lost the power; the individual judgment disregarded from collective» [10, p. 330].

In order to remove the conditions for crime, one should, following the principle of continuity, «stop anomie, find a way to make bodies work harmoniously, which still encounter in dissenting movements; enter into their relationship more justice, more and more weakening external inequalities, these sources of evil» [10, p. 330]. It is, in fact, the creation of a new public morality, which is a system implemented by the factors associated with the whole system of the world. And it cannot be done in a short period of time.

Durkheim considered as one of the main reasons of crime the technology of consumerism: «Boundless desires are insatiable in their essence, and insatiability is not unreasonably considered a sign of a disease state» [13, p. 326].

Therefore, the community should introduce a system limiting the desires of its members.

Not recognizing the utopian idea of a comprehensive equality, Durkheim tried to develop the concept of a just inequality, but thought it was a challenge: «We feel very good, how difficult it is to create a society where every individual may take place he deserves and be rewarded for merit; where everyone, therefore, will spontaneously cooperate for the good of each and all» [10, p. 329].

As the main condition of such justice Durkheim saw equality of starting conditions. Only under these conditions inequality will not embitter people and will be perceived as fair. And such idea of justice of that level of possibility of satisfaction of needs, which was reached by a person, will limit his aspiration to unlimited consumption.

The main function of punishment Durkheim saw in the need of preserving public communication in the integrity, keeping all its vitality in social consciousness. «The main purpose of punishment is to affect honest people; as it serves for healing the wounds made by the collective

feelings... No doubt that warning in the already shaken minds further weakening of the collective spirit, it can prevent the multiplication of crimes» [10, p. 85].

At the same time, the repression Durkheim refers to the attributes of a society based on mechanical solidarity, believing that having the organic solidarity we will not need them and they will be replaced by a non-repressive restitution.

Sociological and criminological ideas of Durkheim, especially his concept of social disorganization, are popular and in demand in science and practice of the present.

Using fruitful scientific legacy of Durkheim, criminology is able to penetrate into the essence of unusual international terrorism as a criminal phenomenon. First of all, it is obvious that terrorism can not be attributed to the total list of crimes which is assessed as a normal social phenomenon, as Durkheim argued. Ordinary crime can be controlled by society. Terrorism does not come under that logic of public and state control. Although terrorism is also a product of society, it has another social function than ordinary crime. Absolute asymmetry of terrorism determines its special social function as an extreme form of signal warning of a dangerous situation in which world society risks to come due to Durkheim's (Marx') «permanent crisis and disorganization of the capitalist system».

Having acquired a philosophical basis and having armed with methodology which is brought by a number of associated with the right sciences, criminology, finally, provides an understanding of the fact that the anomaly of terrorism is inherent in its own sacrifice, which virtually has no boundaries.

Unlike general crime, including transnational crime, the aim of terrorism is not in a striving for compensating for the material and moral losses in a criminal way, which, in fair opinion of Marx, Engels, Durkheim and other great thinkers, are brought to people by capitalist system. Being an ultimatum in its essence, terrorism, figuratively speaking, went out on the world stage with the purpose of appearing in society an understanding

of that extreme limit of fraudulent type of social existence, in which modern capitalism transformed.

As the absolute weapon (for the weak) terrorism shows its valid, first of all, potential efficiency and doesn't leave a choice, except the need of application of measures of a global orientation on a reorganization of the world system, capitalist in its character, which was sentenced to death in XIX century.

But the main thing is such: international criminology with the help of differentiation method with E. Durkheim's ingenious conclusions allows seeing that terrorism, unlike terroristic activity is a "symbiotic" international crime. It arises and develops only in confrontating interaction of actually terrorists and society, which they represent with a well-defined side of terroristic conflict. And this side, forming causes and conditions, provokes display of terroristic way of activity by offended party of social conflict.

2.5. THE FUNDAMENTALS OF THE MODERN CRIMINOLOGY

Scientific-theoretical achievements in the sphere of criminology of the XIX century as a whole are characterized in two main directions: biological and sociological. Original hypotheses and concepts that reflect these areas of research found the development and consolidation in the XX century, which, in essence, is the subject of modern criminology.

The socio-biological and social concepts in modern criminology possess advantages and acceptance. With these concepts, especially with the last one, there are opportunities of deeper understanding of contemporary international crime. It is the sociological approach, which, full of groundworks of related fields of international content, provides a key to understanding the phenomenon of terrorism as international criminal phenomenon.

2.5.1. Socio-biological theory of destructiveness

On the way to a solution of sources of aggression and cruelty, which were found by mankind with persistence deserving better application, the works of outstanding German scientist Erich Fromm (1900 – 1980) deserve a considerable attention. Among them there are well-known works «Escape from Freedom» (1941), «Healthy Society» (1955), «An Image of Person of Marx» (1961), «Soul of a Person» (1964) and, finally, his apotheosis work «Anatomy of a Human Destructiveness» (1973).

Freud's physiological principle of an explanation of manifestations of person E. Fromm replaces with sociobiological evolutionary principle of historicism.

The starting point of Fromm's destructiveness theory is the point of view about incorrectness of comparing a person with an animal. Meanwhile, Fromm quite objectively evaluates the behavior of modern person: «The person is distinguished from the beasts with the feature that he is a killer. It is the only representative of primates, which, without the biological and economic reasons, torments and kills his fellow tribesmen and still finds pleasure in it» [40, p. 23]. Thus the researcher comes to a very important conclusion: «As civilization progress increases the degree of destructiveness (not vice versa) ... After all, if a man had been given a biologically adaptive aggression, which is common with animal ancestors, he would have been a relatively peaceful creature» [40, p. 15]. Equally criticizing both instinctivism and behaviorism (absolutization of the social environment), Fromm goes out his way and confirms one of basic postulates of criminology about a key role of reasons and motives of criminal behavior: «If to call with one and the same word the actions directed on destruction, the actions intended for protection, and the actions which are carried out with the constructive purpose, then, perhaps, it is necessary to leave hope to find understanding of the "reasons" underlying these actions» [40, p. 17].

Differentiating the phenomenon of aggressive behavior, Fromm allocates the behavior connected with defense, response to aggression. He

calls this behavior *a good-quality aggression* as its sense put in it by nature is to preserve life.

Malignant aggression is seen as a human passion to absolute domination over the others, desire to destroy. This is destructivity. Its nature is social, because sources are hid in the shortcomings of the culture and way of life of a man. Unlike animals, a man may be destructive irrespective of the existence of the danger to his life and the necessity of satisfying his needs.

On the basis of the accurate neurophysiological researches Fromm refutes the popular Freud's idea of the fact that the existing human instinct of aggression is, along with sexuality, of primary importance and the attempts to limit this instinct by cultural influences are often doomed to failure. He argues that, as a reaction to the threat, brain generates not only aggressive impulses, but impulses to escape.

Aggressive impulses prevail over the impulses to escape only in beast of prey (representatives of the family of cats, hyenas, wolves, bears). But the person does not belong to them, even on the basis of paleontological researches.

Researchers of psychology of animals establish a very significant scientific fact: «There is no proof of the fact that the majority of mammals allegedly have a spontaneous aggressive impulse which collects and restrains until there appears a suitable reason for a discharge... A man is the only creature among mammals able to sadism and murder in huge scales» [40, p. 97, 98].

It is interesting that the behavior of primates in freedom is not aggressive whereas in the conditions of a zoo their behavior becomes destructive. On the basis of similar observations there appears an understanding of aggression of a human aggression, since during all his history, including the present, it is hardly possible to consider that a man has been living in an essential for him environment. As the exception we may possibly consider ancient hunters and collectors of fruits and the first farmers till the V millennium B.C. The "civilized" person always lived in "zoo", that is in conditions of not freedom or even in the conclusion of

different degree of severity. It is a characteristic feature even of the most developed social systems [40, p. 99].

Life in «a social zoo» is, in a certain measure, an analogue to the opened by E. Durkheim anomie: «The "achievement" of modern industrial society consists in the fact that it has come to a significant loss of traditional ties, general values and purposes. In mass society a man feels himself isolated and lonely, even being a part of it; he has turned into an Atom (the Greek equivalent of the Latin word "individuum" that in translation means "indivisible"). The only thread connecting independent individuals with each other, are the common monetary interests (which at the same time are also antagonistic). Emil Durkheim called this phenomenon with the word "anomie"» [40, p. 101].

Fromm's researches in this sphere give the grounds to paradoxical, at first sight, conclusion concerning social role of terrorism. Since the object of terrorism is the specified social system, its destructiveness, which is fully shown in the system global crisis, there are all grounds to consider this social phenomenon as a reaction to destructivity (anomie) of system. That is terrorism, according to this approach, is defined as the good-quality aggression directed on elimination (or "mitigation") the conditions created by humanity and by subsequently improved «social zoo», in which inequality has reached a critical point.

Thus, the differential analysis of the phenomenon of aggression allowed Fromm proving that only a defensive aggression is biologically programmed in humans. The most extreme display of violence – destructiveness – is a social product. This conclusion is of great methodological importance for positioned here international criminology of terrorism: if the malignant part of aggression is not innate, it means it cannot be considered to be ineradicable.

The assessment of terrorist activity on E. Fromm's scale as secondary, defensive aggression is also connected with it. It (the assessment) is confirmed with the international legal legitimacy of the motives and goals set forth by the terrorists having received legal recognition within basic

principles of international law (self-determination, sovereign equality, political and economic independence, etc.).

As to constancy of defensive aggression, since it is genetically programmed, it is impossible to change its biological basis. For a man variable is only the form (kind of activity) in which such an aggression realizes itself. Consequently, the main condition for reducing defensive aggression is to reduce the factors that actually trigger it. This conclusion of E. Fromm is also very actual concerning criminological assessment of possibilities to fight terrorism. As a display of defensive aggression, terrorism may be localized with the help of elimination of destructive globalization factors of economic, social, cultural, and other character, making the content of primary aggression, and together with terrorist activity (response) form the global terrorist conflict. «Creation of a system ensuring the basic needs of population, – said E. Fromm, – foresees the disappearance of the ruling classes. A man cannot live in «zoo» conditions, that is he must have full freedom, and domination and exploitation in any displays should disappear» [40, p. 188].

Fromm insists on radical changes in our society and political system – such changes, «which will return to a man his dominating role in society» [40, p. 28].

Underlying this approach is the fact proved by the scientist that sadism and necrophilia are not the natural qualities of a man, but the functions of certain circumstances of social and economic life of people.

Society, modeled by Fromm, is based on a principally new system of values: instead of the formula «power – property – control» should be this one: «growth – life». The principle «to have – to save» should be replaced by the principle «to be and to share». He suggested the development of the free decentralized society without hierarchy and strict control, which would have complete freedom and independence. It is the elimination of all forms of oppression that may trigger such a force as love to life, and this is the only force being able to defeat the attraction to death [40, p. 28].

Foreseeing the accusations of utopianism, E.Fromm says: «To believe means to dare, to have courage to think the unthinkable within the real possibility» [40, p. 375].

2.5.2. The actual problems of sociological criminology

Positioning itself as a sociological science even in the period of activity of «the Chicago school» (the 20s of the XX century), criminology truly made a breakthrough in vision of genesis of crime. It is criminology of a thorough sociological context that makes real the knowledge of the phenomenon of terrorism, which has various legal, political, sociological interpretations of its various concepts.

International and sociological displays of terrorism and their treatment in many respects formed the basis for the formation of the general scientific platform allowing organizing and systematizing this diversity of terroristic activities, concepts defining them, and also a lot of explanations and interpretations of the first and second ones.

As such a platform international criminology of terrorism is offered as a separate specialized direction of a modern criminological science.

The modern sociological criminology, certainly, is based on the tradition of the sociological school of the XIX century founded by A. Kettle, G. Tard, and E. Durkheim.

First of all, it should be noted that the systemic crisis of the modern world system actualized the concept of anomie of Durkheim. With its main development, adaptation to the practice of industrial society and problems of criminology as a whole, this concept is a largely “obliged” to the American sociological school of 30s of the XX century which generated a number of criminological theories of sociological character.

Special efforts to it were to put by the American scientist Robert Merton. In the article «Social Structure and Anomie» (1938) he, using the concept of an anomie of Durkheim, comes to interesting criminological conclusions.

One of the main ideas of Robert Merton was that the main cause of crime is the discrepancy between the values, at which society aims, and the abilities of their achieving with the help of established by society rules.

Developing this idea, Merton's student R. Klovard and his colleague L. Olin in the early sixties of the XX century proved that society, imparting to teenagers different values, in fact does not care, whether their achievement is real for the most of young people. In fact only few people may possess these values legally. The majority of people should reveal "dexterity" – violate the rules of morality and law.

Facing with the problems of real life arising in spite of the ideal moral teaching of teachers and educators, young people experience disappointment and frustration and look for a way to create criminal groups.

If R. Merton and his followers have analyzed the conflict between cultural values, benefits and possibilities to possess them, then another American scientist Torston Sellin in his work «The Conflict of Cultures and Crime» (1938) considered as a criminogenic factor the conflict between cultural values of different societies. The essence of the conflict of cultures is that different views on life, habits, patterns of thinking and behavior, different values complicate mutual understanding of people, make it difficult to sympathize and empathize, can cause resentment against members of other cultures. In some cases, legal and moral standards prevailing in a society can be judged as beneficial only to certain social groups, so their rejection is not in contradiction with the values common to another levels of society.

On this basis the American sociologist A.Cohen in 1955 developed the concept of subcultures.

As a rule, the criminal subculture contradicts with values dominating in society. Finding himself in the environment of criminal subculture, a man accepts other values and is as if free himself from the standard social bans, that's why the efficiency of fight against crime is quite often connected with the need of destruction of criminal subculture which «like

the walls of a medieval castle protects criminal consciousness from educational influences of society» [47].

The theory of cultural conflict was globally developed by the American sociologist Semmyuel Hantington showing in his work «Collision of Civilizations» (1993) the existence of the conflict of civilizational cultures and trying to find in it an explanation of the spreading of terrorism and other global threats.

It is not, of course, right to take this approach in explaining the violent conflict and, in particular, terrorism as basic course, because basically the variety of cultures of the earth is a factor of unifying purpose, enriching the perception of the world and existence on the earth. Another thing is that the difference in cultures and ideologies may artificially be used to fuel conflict, but, in any case, the determining of the diversity of cultures as international criminogenic factor (even indirectly) would be a mistake.

In the same 1938 by efforts of the professor of the Colombian university Frank Tannenbaum the theory of stigma (work «The Crime and Society») was based. Tannenbaum tried to apply the sociological theory of interactionism of the Chicago professor George Herbert Mid to the solution of criminological problems. Mid considered public life as a sequence of social situations and typical reactions of people on behavior of the surroundings (interactions).

Tannenbaum proved that the wrong response of society to crimes is one of the most considerable criminogenic factors. In case of mismanagement of negative assessments of crime, they can stimulate the criminalization of a person. It is a question of excessive dramatization of the evil and gluing of labels. «Many socially dangerous acts are committed by teenagers as a prank, and perceived by others as a sign of ill will and evaluated as a crime» [49, p. 351].

Often criminal prohibitions protect the interests of a very small part of society, and their implementation brings to society not benefit, but harm.

“Stigma” from Latin means “brand”. Branding of criminals with iron in the past turned them into social outcasts, and such a measure of fight

against crime often caused new, most serious crimes as a response to social exclusion.

For unknown reasons, criminology did not pay attention to the fact that international law in a certain way «stigmatized» terroristic activities and with its content in a number of cases gave it the dimension of absolute crime, ignoring the motivations and goals of the terrorist struggle.

It is a characteristic feature that in some cases to branding of terrorist criminals separate provisions of international law in this sphere push. It is possible to see such its contents (in the conditions of absence of the standard definition of concept of terrorism) in the provisions of the Declaration on Measures for Elimination of International Terrorism which absolutize crime of acts of terrorism, «whatever be the reasons of political, philosophical, ideological, racial, ethnic, religious or of any other character, which can be brought into their justification»⁷.

Losing hope for an objective assessment of the committed criminal acts and appearing out of law, terroristic groups, in fact, use a single opportunity which stigmatisation leaves for them: forming and improving terroristic activity to attract worldwide attention.

It is not difficult to establish, if criminology, in addition to the existing traditional scientific instruments, uses the opportunities of related sciences and explores the genesis of terrorism in the orchestra (relationship) of sociological, geopolitical, geo-economic, cultural factors of international life.

The negative results of such a stigmatized approach can be found, observing a new element of a branding during the fight against modern terrorism. They are shown in the form of secret prisons for the extrajudicial maintenance of the suspected in terroristic activity, for the accusation of terrorism of national-liberation movements and organizations, and in some cases of the whole people or ethnocultural groups.

The theory of stigma is based on many philosophical and social theories. Its sources can be found in a Christian precept «don't judge and will be not judged». Theorists of anarchism considered a state as the

⁷ See: Document of the UNO A/49/743. 1994. – P. 4.

beginning of embittering a person. In their opinion, all religious doctrines called a man for kindness, but a state founded on violence, denies general love and promotes to the manifestation of the evil [21].

On development of the theory of stigmatization T.Sellin's hypothesis considerably influenced. It is about the fact that in search of differences between criminals and non-criminals criminologists investigate distinctions between the convicted and the unconvicted. In fact, among «the unconvicted part of a society» there are many criminals and among the unconvicted the differences between criminals and nonoffenders are insignificant [34, p. 29].

This hypothesis was considerably confirmed by E.Sutherland who discovered and investigated the phenomenon of white-collar crime. The crimes committed by «the cream of society», repeatedly exceed traditional crime in the public danger and in the size of a material damage. In spite of the fact that degree of public danger of crimes committed by representatives of the lower class is lower, all power of the punitive machine falls upon them. Criminal representatives of respectable society, as a rule, remain unpunished [33, p. 54].

Consequently, only a small part of the real criminal world actually is in prison. In most cases, these are the least skilled and the most unfortunate its representatives.

In this way a condition of punishability of crimes in Russia the known criminologist of the present V.V.Lunev estimates. In his opinion, corruption and plunder of the state property appear to be the most “unrecorded” crimes. A ratio of the actual and traceable crimes of this type is about 1:1000. «In general the accounting of law-enforcement bodies covers the so-called crime of poverty – the crimes made by outcasts and weakly adapted subjects, And the most dangerous crime – «crime of wealth, the power and intelligence» – as a rule, doesn't get to “accounts department” of the Ministry of Internal Affairs» [25].

The main practical conclusion of E. Sutherland actually warning against total criminalization of adult population is in the necessity of

restriction of the punitive measures, since they are ineffective, unjust and through the stigmatization doom a person to criminal career.

The theory of stigma in a certain international interpretation helps to concentrate correctly the international legal efforts to overcome terrorism. There appears a rhetorical question: Does one offender have the right to condemn another? This question has become very burning in the sphere of anti-terrorist activity, because there is a threat of universal scale as elementary criminological analyses and researches in the sphere of conflictology show that terrorism, that is the global terrorist conflict as the international phenomenon, is made by two parties. One of them makes its contribution by producing economic and social injustice in the international relations, another party reacts in the way of wrongful interactions (acts of terrorism). Meanwhile the efforts of the international legal and law-enforcement mechanisms concentrate mainly on the latter, “marginalized” party, and this makes the conflict much more criminalized.

The criminal nature of the first party, using V.V. Luneev's terminology, doesn't fall to the international legal “accounting department”. Even crimes global by results and scope do not get there. Is it possible, for instance, to compare the consequences concerning material damage and losses of human lives during the illegal war in Vietnam, modern aggression in Iraq with victims of terroristic acts, even large-scale and resonant? Of course, the arithmetic is not quite appropriate in this case, but, due to attracting «criminological» attention to similar cases, having become the ordinary facts of the international reality, it becomes clear that ignoring the «white-collar global crime» leads the global society through crisis to collapse.

To some purpose the supporters of stigma theory suggest in the fight against crime to rely not on the machine of repression, but on the system reconstruction of fundamental bases of social life: consistent increase of fairness, honesty, kindness, humanity will reduce crime in society.

The brave opening of E. Sutherland's white-collar crime at the time, along with a direct legal effect on the function of the crime, had an

outstanding public interest. It also made a revolutionary impact on the state of democracy in the American society.

Despite the global importance and convincing of E. Sutherland's arguments concerning the fact that the major part of criminogenic factors is produced by the upper layers of society, this conclusion was not properly developed in international criminology. In addition, criminology itself also was not properly developed in the sphere of studying of international crime.

Otherwise criminology would be able to move away from the priority object of its research – from the personality of criminal, who, in fact, in many respects defined it as the science of cognition of crime, criminality and offender. Then there was not a problem for criminology to «point» international law on the basis of geo-political, geo-economic, international, social, and other specialized analyses of an international character on the priority of international «white-collar» object of influence, the role of which is performed by institutions and individuals representing the capitalist system of world economy.

Meanwhile, in the course of research of some of the most dangerous international crimes, the different international character of the structure and content of criminological science is clearly seen. In particular, it is most eloquently demonstrated during the study of terrorism as an international crime. Finally, it was objectively established that the main power of the international legal potential should be moved here from the last and not the decisive link in the chain of terrorism (organizers and actually perpetrators of acts of terrorism) to the essential element of this complex crime – the destructive factors of the world economy, their creators and implementers provoking the total criminality of international character.

2.5.3. The application of the achievements of criminology in the sphere of international crime

The doubtless merit of criminology (and sciences-predecessors on which it was created) is the fact that in its development this science constantly discovers radical (strategic) crime determinants, including international ones, which in case of their further scientific development could form a basis for powerful anti-criminal legal bastions, especially in the ways of distribution of international crime. But, unfortunately, such discoveries and conclusions for various reasons weren't actualized and remained outside criminology and criminal law. Although, as pointed out on this famous French criminologist M. Long, any criminological research, sooner or later, still influences criminal policy [46, p. 10].

It is necessary to pay attention, for example, to obviously unsatisfactory degree of embodiment in anti-criminal practice and rules of law of such theoretically basic criminological concepts as concepts of stigma and anomie, since opening within the theory of stigma the phenomenon that crimes are committed practically by all members of society, but only representatives of the poorest layers are involved in criminal liability, attracts a conclusion about inefficiency and injustice of practising methods of impact on crime.

Taking into account a certain specificity of international relations, this conclusion can be extrapolated to the full scope of determinance of international crime. The scientist pointed directly on a number of specific offenses in the sphere of economics, management and control, as well as in the field of social security, which largely determine international crime and criminogenity, but as a rule, are not mentioned in the criminal code as crime (air and water pollution, failure to pay taxes, punitive agreements on prices, cheating customers, corruption and abuse of political power) [51].

It is known that the class relations in a certain measure are shown in foreign policy and behavior of a state being their carrier. Even in the interstate relations a state first of all cares of interests of ruling classes (suffice it to remember its activity in favor of multinational corporation

MNC). On this way a state performs many actions which either actually form structure of international crime, avoiding thus the corresponding international legal qualification, or with all evidence *egra omnes* should be criminalized and provide severe responsibility of state and individuals representing it in such cases.

Consequently, the international legal order would not be harmed with international criminological researches and recommendations of geopolitical, geo-economic, geoconflictological nature, which, being based on the approach of R. Quinn and other criminologists, would create the basis for an appropriate international legal qualification of international crimes, taking them out from the sphere of principles of political expediency, or rather modest assessment as international delicts. Also criminological justification of criminalization of a number of actions which form a zone of the international criminality in questions of the international security and ecology should be made, which, out of any doubts, are caused by interests of ruling classes, so-called world elite.

Maybe then the shameful name of international criminal act of the bombing Yugoslavia in 1999 – «air campaign» [32, p. 51] would not appear in the international circulation, and frank aggression in Iraq, doubtful from the point of view of international law actions of the so-called anti-terrorist coalition in Afghanistan floutingly wouldn't be qualified as humanitarian actions (interventions).

Criminology is the science of outstanding civil mission, because it should tell society and politicians the truth about crime reasons that is not always convenient for them.

Realization of possibilities of criminology in the international sphere also includes the removal of the veil from those spheres of international political, economic and social life, which are studied by scientists reluctantly, because this at least contradicts existing traditions.

However, the «domestic» experience in the development of criminological theory and practice shows the positive impact of bold theories and concepts on the state of science and society. For example, in the U.S., thanks to the ideas of R. Clark, E. Shur and other criminologists

of the late XX century, the level of criticality in criminological studies is raised highly enough; and even rather restrained researches gain a revolutionary content, which is especially important for countering international crime.

In particular, the increasing popularity was gained by a very critical book under the name «Our Criminal Society», written by Edwin Shur, the member of the Presidential Commission for the Fight against Crime in the United States. In it the author reveals a number of fundamental factors of criminality of the American way of life:

- the American society is criminal, because it is an unequal society;
- the American society is criminal, because it is involved in mass violence abroad;
- the American society is criminal, because there are elements generating crime in our cultural values;
- the American society is criminal because it created «additional» crimes by excessive regulation of public life;
- the American society is criminal, because it is guided by the unreal and non-functional principles.

Ramsey Clark in his researches comes to a conclusion that a problem of crime is impossible to solve by means of violence. Moreover, public danger of state violence can quite seriously compete with the public danger of crime, and sometimes even exceed it. We should mention here the international social danger of measures taken in the fight against terrorism (Iraq, Afghanistan, Gaza, secret prisons, not always justified cruelty of anti-terrorism legislation etc.). The scientist, in his book «Crime in the United States» points directly on the criminogenic factors of the state capitalist system (as, for example, VV. Luneev points on criminogenic globalization). «In the United States, in most cases crime occurs in the atmosphere of poverty and its consequences: idleness, misery, hopelessness. It begins in a place where thousands of people are out of work, and the work is paid at the lowest rates; where people live in old, dirty, disrepaired homes, where they have no rights » [20, p. 72].

Ramsey Clark offered an extensive program of transformations of the different areas of American society: police, judicial and penitentiary systems, health care, education, housing-and-municipal sphere, social security, employment. R. Clark's book got a colossal public response and had a significant impact on the process of social reform in Western society. Criminology being focused on international crime really lacks such an approach.

It would not be correct to simply copy the scheme of studies and actions with their subsequent mechanic transferring to the international level here. It should be understood that as the effective area of criminological science international criminology may actually exist in a form, which include the world system its viability as its key objects, because this system contains not only an international criminogenity itself. Deficiencies in the system of world order increase and produce in some cases the domestic crime, and this relationship gains a correlative nature. This is the first thing.

Secondly, this approach provides for qualitative changes in the criminological science itself, as it is described as «a breakthrough in terms of growth of independence and integrity of criminological research» [17, p. 196].

The assessment of selectivity and conformity of criminological science have already been established in scientific environment itself.

The condition of formation and effectiveness of criminology expected by society in the sphere of international crime is a disassociation of conformistic criminology supporting the dominating geopolitical deal, existing global system of the world and world elite guided by political inquiries. The urgency of international and criminological researches is not decreased, because the public need for the solution of problems putting forward by international criminology is obvious.

As a science of criminal law course and as a practical component of the sphere of improving of fight against crime, criminology has a rich history, saturated with distinguished explorations and discoveries.

But scientific advances and practical achievements of criminology, unfortunately, are not implemented in full. This leads to a narrowing of the legal means and reducing of the effectiveness of their impact on crime.

On the other hand, it is evident that the development of criminology in its historical aspect was caused mainly by needs to combat crime within the nation-state society. With the appearing of the period of the intensive internationalization of life (the second part of the XX century – the beginning of the XXI century), criminology turned out to be unable to adapt properly to the system of the new socio-economic conditions and political and law categories defining the causality of crime at international level. There was no response of international crimes on the condition of criminality in states. Consequently, in order to improve the situation, criminology must pay attention to the development and formation of the new scientific methods being able to master the different – “international” – nature of criminality, and arm itself with appropriate scientific instruments.

However, it is early to talk about the different criminology, its new branch, because criminality in its international display being produced by states and by other participants of the international relationships within counteractions of the large societies finally goes from a person, concentrates on his interests, motives, feelings, passions and even emotions.

This common ground in general predetermines that moderation in identifying the boundaries of delimitation of criminological science of the national and international law systems, which is described as a separate independent direction of the single science of criminology – international criminology.

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Part 3.

THE INTERNATIONAL CONTENT IN THE ASSESSMENTS OF CRIMINALITY, ITS CAUSALITY AND DETERMINATION

3.1. THE CONCEPT OF CRIMINALITY

Criminality is a complicated phenomenon being perceived by society first of all through particular crimes.

Crime may be considered from the point of view of both criminal law and criminology.

The criminal law approach considers crime as comparatively isolated act of a person's violation of criminal prohibition. The crime assessment is based here on the legal analysis of its content in a unition of the four elements: object, objective part, subject and subjective part.

For the international criminal law the assessment of international crime according to the formula of four components is in general appropriate. However, it is not used for the analysis of international crime content. Firstly, it is not always easy to identify the subject and object of crime, when it goes simultaneously about a state, a particular ethnic group, and also about an individual realizing a state's will. Much more important the situations appeared when the interconnection of individuals and a particular state does not have a direct character. Secondly, the problem of identifying the features of a subjective part of international crime is rather complex, especially in part of state's guilt, its psychical attitude towards committed act. There is a rather active polemics concerning this question in a doctrine.

Thirdly, international criminal law has not found the mutually acceptable definition of the notion of the separate international crimes. First of all this concerns such actual crimes as terrorism and aggression. There is

no real realization of the perspective of their defining through development and improvement of norms and provisions of the Statute of the International Criminal Court.

Concerning the involvement of individuals to responsibility for terrorism this problem may partly be solved with the help of the national legislations of the interested states. But such an approach has nothing to do with both criminological science and science of criminal law, because it leaves a state as the main subject of international law with its important for international life interests and behavior behind the attention and legal reacting. Moreover, the situations in which a state illegally avoids the responsibility may produce additional criminogenic factors.

Criminogenic approach involves the analysis of crime, firstly, simultaneously in context of the conditions of the external for a man environment and the characteristics of a man himself; secondly, not as a single act, but as a particular process developing in space and time [19].

Taking into account the growth of influence of international life factors, both a person as a social factor, and the conditions themselves as (criminogenic) environment may, firstly, gain other, sometimes unexpected features contradicting the traditional approaches and creating of contradictions of moral and legal qualifications of certain actions in national and international law. For instance, terrorists (militants) acting in Iraq, Afghanistan, Middle East and other countries and regions, assessed by international antiterroristic law as terrorists, not always seen as such in societies of the mentioned and other countries. And vice versa, the so-called peace-making actions concerning democratization authoritarian states by separate societies and countries may be viewed as aggression or terrorism.

Secondly, it follows that for the studying of a person and external environment in which he exists, according to the necessity to study international crimes and counteract them we need additional criteria and methods, because with the internationalization of international life there appear more and more directly international factors of influence a person being simultaneously under jurisdiction of a particular state and under the

influence of the corresponding state society. This society, due to the means of communication is very sensitive to the standards of international environment. It is clearly seen in the spheres of ecology, economy, security, human rights etc.

A person may be assessed completely in different ways in inner system of his country and being a member of international society.

And we should not consider (especially for the needs of criminology) the modern environment in which a person exists as a particular sum of "state" environments with unfavourable for the poor countries balance.

And finally, thirdly, it may be stated that in globalized life conditions there appears a new international legal problem of objectivization of state as the main subject of this legal system. In connection with this we may consider as the main the international conflictology method of cognition of determinants of state criminality, as international criminality is first of all an international armed conflictness that is impossible without participating of states.

During the second part of the XX century, after the World War II, in various parts of the world there were more than 300 interstate conflicts. More than 200 of them used the military forces of states [4, p.10].

Since these conflicts and many other ones are conditioned by a state's interest and a state's role in the process of globalization does not decline, for modern criminology a necessity arises to research the problems of criminal state responsibility. On the other hand, the conflictological achievements of the international criminology are likely to have as a result the proposals of sustainable mechanisms of transfer of active realistic conflicts into unrealistic ones with simultaneous de-actualization of problems underlying these conflicts.

Meanwhile, the researching of actually conflicts as complicated social phenomenon requires the efforts of the various humanitarian sciences – history, economics, law, sociology, philosophy, political science, psychology etc. This fact points on the international interdisciplinary character of criminology's research itself, as each of the sciences within criminological interests elaborates special aspects of the crime or conflict.

So, for criminological research and awareness of personality of a modern man in conditions of globalized environment the content of criminological science must “globalize”. Its approaches and methods must acquire the interdisciplinary international character.

Only by taking into account the international aspects of crime research in the context of its criminal-legal and criminological characteristics the complete picture of committing the crime and its causality may be formed.

In general, criminal-legal analysis of crime gives possibility to define the system of signs necessary and sufficient for understanding of the fact that a person has committed an offense foreseen (prohibited) by the specific norm of criminal legislation, and is a subject of criminal responsibility.

Criminological approach is directed on determining the causes and conditions of crime, the peculiarities of characteristics of a person who has committed a crime, and social consequences of criminal behavior. This corresponds, for example, to the requirements of the Criminal Procedure Law (Article 68 of Ukraine's Criminal Procedure Code). But international specificity of this approach has not been adequately reflected in the norms of international criminal law and international legal procedure.

The complex study of crime is determined by the mechanism of criminal behavior. Factors of external environment and personal characteristics of criminals should be considered in the interaction and reciprocal influence concerning the state of criminal behavior: formation of motivation, making decision of committing a crime, fulfilment of the decision, post-criminal behavior.

For regulating counteraction to crimes and creating the grounds of the subsequent prevention of criminality it is important to understand its motivation. Motivation – is the "soul" of crime. It includes the process of origin and formation of motive of criminal behavior and its purposes. Motive of behavior is an inner urge to action, desire, which is determined by needs, interests, and feelings arisen and aggravated under the influence of the external environment and particular situation. Following the motive a goal forms as the intended and desired result of a certain act.

Researching the problem of motivating of state in the sphere of international criminality, it is impossible to ignore the problem of motivation also physical persons as their representatives while committing of certain criminal acts according to international law, especially in criminal-legal aspect of problem. This is the subject matter of social psychology, geopolitics and other sciences of international criminological sphere, which actually criminology should regulate and prepare for the purpose of researching qualitatively new object – state as possible “personality of criminal”. Otherwise, you should query the categories of international crimes and international criminality with participation of states on the whole.

Taking into consideration the complexity of the motivational component in the formation of criminal behavior, it is necessary to give the significant meaning of its study. How, for example, can the question of the organization of countering against terrorism be risen, when there is a clear demonstrating of neglect in the international legal act for “considerations of political, philosophical, ideological, racial, ethnical, religious or for any other nature” underlying terroristic acts? [5, p. 4].

The attempts of international criminal law to avoid this problem lead to the distortion of the subject of regulation of its norms, their depreciation.

The correct estimation of a criminal act presupposes clarification of the fact how actually the process of criminal behavior's origin at each stage looked, under influence of which factors primarily motivation and decision formed: stable characteristics of personality or complicated, extraordinary situation.

However, in criminological science there are no systematic researches of the process of origin of a state's criminal behavior, its motivation and decisions formation. And there appears a question to answer: is the motivation of individuals able to transform into the motivation of state?

It is also important to ascertain why it was decided to choose exactly the criminal variant of behavior. The motive and aim themselves can not have anti-social nature, but by the means of achieving aim the behavior can be made criminal.

Especially it is typical for the international crimes of political nature, where the struggle of peoples and violent actions of social groups and even of separate persons are caused by geo-economical deformations, by external political domination influence etc. Exactly this happens in terrorism, where all components of this complicated continuous crime are, in fact, legitimate and lawful, with the exception of the things concerning actually the instrument of struggling, which is used by terrorists. Criminology is likely to be able to elaborate and recommend the differentiated forms of international legal qualification of international criminal acts with such element.

Since such crimes are usually not simultaneous and proceed in the form of a long process, in which the legitimacy of the participants' actions interweaves difficultly with criminality, then in this case the international criminology idea of the total subjectivity would be acceptable with the international legal qualification of act of "process" nature with its differentiation concerning separate specific elements of these acts.

Another thing is that the law allows only legitimate ways of fighting with socially dangerous acts. But in the sphere of fight against international criminality, this border may not always be clearly defined, since it often balances between the inconvenience of international legal norm and expediency of political decision.

It is also important, under the influence of which circumstances the decision about criminal behavior was made: whether it follows from the ordinary for a person or social group way of conflict resolution or is produced for them by an extraordinary situation, by others circumstances. This includes such things as disbelief in the opportunity of quick and effective protection of the violated rights by legal means, or the ignorance of these means, etc.

Herewith it should be taken into account that in international law the norms and provisions called to protect the rights and freedoms of citizens, possess generalized (declarative) character and are not always clearly defined by the legal categories (the right to have shelter, freedom from starvation etc.).

Violation of such rights is not related with one-moment or episodic acts of certain persons, vested with such kind of competence, but with systemic defects of international life's organization. That is, with the help of criminal legal analysis, as it often is in domestic law, here, it is much harder to solve the problem of implication, and consequently, criminal responsibility. Therefore, on the way to determination of the causes of international crimes, criminology has to apply to the large-scale researches of interdisciplinary character, in which the basis for the estimations are the geopolitical, conflictological and other expert conclusions of the similar level.

In connection with this there appears, for example, the situation connected with the counter-actions of terrorism, as it is defined that the main part of terrorist actions' methods is applied during the whole struggling process for self-determination of peoples, political and economic independence (at least, under such slogans), exactly with lawful purposes. Moreover, the actions of the opposite side of a terrorist conflict, which, in fact, caused such an extreme form of protest and are defined as such actions which brought the humanity to the threshold, beyond which global processes may acquire catastrophic character, are, in most cases, not criminal under international law and do not form its breach.

This circumstance itself legitimizing in international relations the activity aimed to destitution and deprivation of social groups, nations and ethnics the perspective of existence, created the conditions for the international legal de-regulation and asymmetry, which generates the terrorist asymmetry. In other words, the terrorist methods of struggle in these conditions claim on the adequacy and legitimacy, which raises the problem of their international legitimacy.

Herewith, it should be taken into consideration that the generally acceptable definition of the international crime of "terrorism" has not been established yet. Counteraction to this international crime is mainly carried out (especially in the part of application of criminal repression) under the legislation of states. Since their political assessment and legal qualification

of terrorism varies depending on the belonging or orientation on a certain part of the global terrorist conflict, it entails only its escalation.

It becomes clear that modern criminology following the domestic approach is unable to give the right assessment to terrorism and actions performing this complicated crime, to indicate the way of eliminating of its main component – terroristic acts. In order to learn the global essence of terrorism and its criminal manifestations, we should creatively comprehend the achievements of predecessors, first of all in the sphere of stigma theory, social disorganization, problems of white-collar criminality etc., and estimate them on the background of international criminogenic political and socio-economic processes caused by globalization. On this ground specific approaches and integral methodology should be formed, which is able to correspond to the international parameters of terrorist criminality and result its generally accepted comprehension in the international community.

Modern criminology says that during the criminological analysis the crime should be investigated in the context of the external environment and simultaneously of the characteristics of a person of a particular social group. Those indictments, which describe only the immediate situation of human life deprivation and do not reflect the entire essence of the conflict, look unconvincing [1, p. 63-69]. The limits of criminological analysis of crime are usually more extensive rather than the criminal legal ones.

Thus, the stages of motivation and decision making may contain actions, which are not considered by the criminal law as a preparation for committing crime. But concerning the sphere of international criminality such analyses must have fundamentally different, specialized nature and another, geopolitical scale.

Exactly such level of criminological, by its nature, analysis of non-criminal behaviour of the global conflict, which, carrying out the realization of predatory economic schemes, provides the system of global economy with the quality of determinants of terrorist acts, gave opportunity to define terrorism as a violent manifestation of the confrontation between two social megagroups [2, p. 7].

Criminological analysis, unlike criminal-legal one, also contains the studying of post-criminal behavior that is relevant to the realization of criminal decision.

Such analysis of the social consequences of the acts also has its own specifics both for the guilty and for the environment in the international sphere, and especially in that which concerns terrorism. It is, for example, in recognizing of the legitimacy of a state and state formations (Israel, Kenya, Palestine) which appeared as a result of the armed struggle, in which terrorist tactics and methods of action dominated. This peculiar way of recognition of the permissibility of terrorist methods of struggle confirms the necessity of creation of the specific methodology of cognition of the international crime terrorism.

It is not also a secret that the modern national-territorial format of the large quantity of states in Europe and Asia, is a result of wars and armed conflicts, including the later determination of them as crime under international law.

There appear, consequently, the grounds to consider that in sphere of studying of post-criminal behavior international criminology has its own specifics and consequences, since with further studying of the problem, criminology must see that the criminal nature of the primary actions sooner or later cause even more dangerous criminogenic or criminal consequences under international law. That is, the research of post-criminal process in international relations leads the criminological science to the problem of defectiveness of world's order. Even fragmentary results of such researches show that it is impossible to infinitely disguise the international legal norms with imaginary legitimacy. For instance, the armed aggressive actions can not be represented as humanitarian actions, actions of humanitarian intervention etc. It is no longer possible to be isolated from terrorism as from criminal social phenomenon of international character with norms of the universal conventions regulating the counteraction to terrorist acts as one-moment criminal actions or with norms of terroristic activities as criminal activity of organization and conducting of terroristic acts.

In our opinion, due to the specific "international" methods and opportunities of research, criminology is able to discern the essence of post-criminal phenomenon in international law. The post-crime welfare of some Western countries, behind which there is threat of world community disorganization, from this point of view, "have to" be placed on a par with the direct social disorganization like the one that takes place in Somalia. That is the primary causality of international criminality in terms of estimation of post-criminal behavior of the subjects is displayed in the same defects of world's order. This kind of coincidences, when the scientific researches realized from different viewpoints from different positions of problem studying (causation of international criminality), its aspects, lead to the same result, indicate, first of all, on the correctness of chosen (international, interdisciplinary) scale, which is not typical for criminology in general. This indicates the obvious specificity formed in the criminological science and the natural formation of the particular "international" direction within it.

In general criminology focuses on the "state" definition of criminality. Criminality is characterized as relatively massive, historically changeable social phenomenon of class society, having criminal nature and consisting of the totality of crimes being committed in a definite state in a certain period of time [17, p. 173].

Criminology considers a crime as an individualized (concretized) manifestation of criminality, which is subordinated to dialectics of single – special – common. Crime may be considered as a substantial form of criminality display [6, p. 25].

Consequently, the criminality involves the totality of specific crimes in itself, which are committed in specific time period in a particular society, but is not a simple sum of crimes [11, p. 55-57].

Meanwhile, the study of crimes, as well as any other phenomena in general, shows that they demonstrate many new qualities in their plural form. There are some correlations between the different crimes. For example, the decrease of the number of physical injuries is accompanied by the increase of the number of crimes against human life and health. By

analogy in international life, the fragmentation of armed conflicts is observed as compensation of some kind of large-scale wars. The relationship of criminality and crimes is interpreted as a connection of common and private. If we refer to the figurative comparisons, we may understand that, for instance, though an ocean is formed of water droplets, but possesses the qualities, which are not inherent to a drop of water: tides, low tides, storms, currents, etc. The same concerns the criminality, because it has different qualities than those specific crimes possess. The research and clarification of these new features are particularly important for international criminality, because the consequences of unrealistic and invalid criminology may be measured here by categories catastrophe. Since, in contrast to the miscalculations of criminology of national state level, which may be corrected by the international community, miscalculations and mistakes of criminology acting for the benefit of the community, it will correct in the best case itself. The approaches, which are practiced by the national level criminology, in the international sphere may lead to distorted estimation of international crimes, and this is pernicious for international criminal law.

Such is the situation, for instance, with estimation of producing catastrophe of terrorism in mass of its terroristic manifestations. If to look at this correlation in the reverse direction, one can see that terrorism is far from being plurality, and is not even the sum of terroristic acts. This, as indicated above, is a criminal phenomenon that is formed not only from criminal acts, but also from other ones, including quite legal actions of social, economic and other nature.

Terrorism as a criminal phenomenon (the defined criminality), in contrast to the terroristic crimes, which, from the first sight, form it, acquires completely unexpected of catastrophic features of substitute of international law, or qualities of the model of social arrangement of a particular society. Logically here may be expected, according to the traditional "canons" of criminology, the quality of terrorism, which gives the grounds to control certain global processes, separate regions. Obviously such anomalous transformations are the evidence of only one thing: not all

of the factors, causes and types of criminal manifestations of international scope are taken into account in the research of terrorist character of criminality. In particular, during the study of terroristic criminality the geopolitical and geoeconomic causes and conditions indicating on active part in its formation not only of the direct crime committers and organizers of terrorist activity, but, because of significant defects of world's order, quite decent actors of international life, possess lack of evaluation.

Undoubtedly, terrorism, is is too complicated criminal phenomenon to consider its criminological characteristics as simple arithmetic schemes. Especially the "general" criminology is concerned about this key question: what is the criminality, and what things lies behind separate crimes and criminal activities of specific subjects?

The answers on this question reflecting the definite criminological position, on the one hand, confirm the correctness of orientation on general criminology grounds in the search of terrorism genesis, determination of social mechanisms constituting its essence. On the other hand, the answers also confirm non-traditional way of formation of criminal essence of terrorism, its components, and this requires the elaborating of additional specialized criminological methods of its study, the determination and awareness of ways of its removal.

Firstly, as it was mentioned in the literature, criminality appears not only in the face of criminal acts. It shows itself in people committing crimes [20, p. 110; 8, p. 8; 10, p. 37; 22, p. 14].

The actions and subjects of these actions cannot be separated. Consequently, considering the significant role of subject of crime in the research of criminality as social subsystem in the sphere of criminology relatively to international criminality, it would be logical to increase the attention to a state. It is almost impossible to establish any features and trends of international criminality in general or specific "generic" criminality without underlining of a state as special subject of criminology science. The behavior of a state as a substance of the world system determinating factors of interrelations of states within the global group relations – that is a very interesting and not completely researched direction

of science in criminological aspect, requiring the systemic elaboration at significantly updated methodological basis. In the opinion of the academician V.M. Kudryavtsev, criminality involves the totality of the committed crimes and the received socially dangerous results [16].

Secondly, we are talking not just about a certain amount of crimes not related to each other, but about the complicated system of crimes. And considering the fact that the connection of many crimes realizes itself through the subject of crime, there established the notion of criminality as complicated totality of crimes and their subjects. In criminology there originated a certain opinion, according to which criminality possess a systemic-structural nature. It is characterized not just as plurality of crimes, but as a phenomenon, integrated totality, the system of crimes possessing certain systemic features, that is sustainable dependencies inside the integrity, and between it and other social phenomena [14, p. 63-65].

This viewpoint on criminality is not shared by all scientists. Although it is mostly correlated with the vision of international criminality and, in particular, of terrorist criminality as manifestations of terrorism.

In international life, in contrast to domestic processes, the process of transformation the crimes into criminality, its acquisition of the different features from crimes in their union is also different. The criminal essence of both any action and phenomenon in general, in international law system is determined, finally, by the will of a state as the main subject of international law. State, in essence, at its discretion, in some cases may determine the criminalism of acts, in the other cases, on the contrary, - determine the criminal phenomenon without recognizing as such the acts constituting this criminality. And finally, in the third cases for determining phenomenon as criminal the criminality of specific crimes may be chosen in such a way that the "obtained" criminality in a result gains essence, which is beneficial for some states and is not advantageous to others. That is, in the international law sphere foundations form for the production of additional international conflictness, to which, unfortunately, criminology is implicationed through its indifference, conservatism and its contraction by "national" methodology.

Meanwhile, the necessity in international sphere for elaboration of updated methodology of criminological science is determined by other criteria of threshold of distinction between crime and criminality. In separate cases, this border is impossible to establish. It is enough to consider, for example, the definition of the most dangerous crimes of aggression and terrorism under international law, which were suggested, accordingly, in act of "soft" international law, and in literature. According to the Article 1 of The Definition of Aggression adopted by the UN General Assembly Resolution on the XXIX session on December 14, 1974, the aggression is the use of armed force by a state against sovereignty, territorial integrity or political independence of another state, or in any other manner inconsistent with the Charter of the United Nations, as set in this definition.

Explanatory note: in this definition the term "state" possesses also the meaning "group of states" where it is appropriate.

Further the Article 3 of the Definition of Aggression provides seven varieties of aggression's manifestations.

The definitions of terrorism in the scientific literature are very diverse. According to the author's opinion, terrorism is defined as based on conflict violent confrontation, which, at the same time, causes the damage to a state and encroaches upon international security and international order, and is based on differences in political, economic and cultural interests of groups of states, states, peoples, nations, social groups and movements on condition that at least one of them uses terroristic methods of action as a way of impact on the opponent for achieving political goals. [2, p. 7].

Focusing even on these a few definitions, which are not the final ones, one can see, that they simultaneously contain both feature of crime and also the criminal phenomenon that is criminality. It is not by chance that both in doctrine and in international legal practice one and the same actions are often referred to as crime and criminal phenomenon, social phenomenon of a criminal nature etc. It is possible, of course, to hide behind the semantic resourcefulness offering, for example, to distinguish the terms of "terrorism" and "act of terrorism", but it does not make in the essence of the

considering the nature of international criminology clear. Is there, for instance, the difference in the essence of criminal act, if it is described as "theft" or "act of theft"? All this, certainly, is the subject of polemics and needs more precise definition. But for this research another thing has significant importance. Criminology studying the international crimes and criminality has to form the specific approaches and methods for determining the differences between these notions, to establish the criteria and characteristics of transition first thing to the second one and vice versa. And, what is significantly, criminology should research and propose the prevention from those most dangerous conditions and features that the international crime gain, transition into the international social criminal phenomenon. It is obvious that the traditional approaches, methods and existing scientific instruments here will not achieve the desired result.

3.2. CRIMINALITY AS A SYSTEMIC STRUCTURAL PHENOMENON

Criminality forms the whole complex of interconnected elements that make up a specific system. That is why it is independent and possesses such qualitative characteristics that are not inherent in its separate elements, has its own history and development logic.

The criminological researches fix the naturally determined interrelations of various elements of criminality, confirm its ability to "adapt itself" to changes of the environment, and even to adapt the environment for their survival and development. In the new conditions forms of its manifestations change, but the reverse impact of criminality on society is also observed. The contemporary terrorism is quite confidently advancing towards the intensification its regulative functions within the international community, coming up to the important political and economic decisions. With the naked glance the influence of terrorism on international life is seen as it was noted in the agenda of significant summits of G 8, G 20, and G 30 of the most developed countries and at

other powerful international forums. It has become normal in international relations, that the ponderability of any political and economic decisions, their sustainability largely depends on how they are verified at the international "terroristic" coordinate system.

Eloquent confirmation of this is the situation of the adopting the decision about resignation of Hosni Mubarak by the world's elite on February 11, 2011 in Egypt. Of course the complexity of the decision is conditioned by necessity of the terrorist organization "Muslim Brotherhood" which is practically legalized in the country, the danger of its consolidation with similar organizations "Hezbollah" (Lebanon) and "Hamas" (The Palestinian Authority).

Substantiation of systemic criminality nature is based on:

- the recognition of criminality in the capacity of specific subsystem of society as the element of more general system - society as a whole;
- substantiation of a certain integrity of criminality as a whole, its separate elements based on the highlight of a single criterion of quality;
- the allocating of particular elements of the "substructures" of criminality, being in interrelation with each other, which set new qualitative characteristics of the whole criminality in general, distinguishing it from the separate elements.

One of the key requirements to the system is the "presence of, at least, one large system, covering this system" [3, p. 101]. In regard to criminality, such a comprehending system is a society. Consequently, there may be no doubts that the criminality in its manifestations, its different types and systems are interrelated with each other, at least, through society as a single common determinant of criminality.

Since the international community is not as distinctly structured as society within a state, its determinants with respect to international criminality are defined by the other different methods. In this case the criminology should take into consideration the double influence on the international criminality: from both state's government, and international community, and also in the system of interrelation of state with the international community. In other words, the strategic determinant of

international criminality is formed not as the sum of determinants of states constituting the international community, but as product of special (global) social system having its own characteristics. It is clear that tasks of criminology arising on this basis demand updating of the science itself, its possibilities, and, it is not excluded, some its substantial characteristics.

In general, the criminality is to be considered as both a part of more general system (but not less common than a society as a whole), and as negative social deviations. These deviations are highly varied: the shadow or parallel economy, drunkenness, narcomania etc. For terrorism these are, for example, the unfair international division of labor, resources, technology, unequal economic exchange.

First of all, it is necessary to remind of the two principal fundamentals of interrelation of various kinds of social deviations: the commonality of some causes of these phenomena and number of signs of their features carriers. "Despite all the differences between the social deviations their unified anti-social nature stipulates the mutual influence, dependency, combining of the different kinds of social deviations into a unified negative process. The internal structure of this process significantly depends on the change of external social conditions" [21, p. 242].

However, the specificity of criminality, its difference from the other forms of social deviations is the greatest social danger and the proclamation (criminal-legal prohibition) about this danger by a state.

Is it proclaimed and in which way about the danger from international and transnational criminality? Has this to make a state or the international community a structural planetary social-state unification? And generally, is the degree and scale of social danger going from abnormal manifestations of geopolitics, global economy, international social order adequately defined (and by whom)?

Now we can only say that these and other questions determining in many respect the degree of danger international criminality and public awareness are researched insufficiently or are not researched at all at the system level within criminological science. Negative results appeared soon.

The signs of the fact that the present system of world order is an acceptable environment for existence of many types of international and transnational criminality displays today more persistently. On the background of numerous assurances of authoritative specialists on double (positive and negative) impact of globalization on the health and condition of world community for criminology (which, we remind, is socio-legal science), it is obvious that the global criminogenity accompanying the contemporary active phase of globalization destroys the last hopes of the community for the formation in accordance with international legal canons of the United Nations Organization, realization and concordance of which were got in such a high price by humanity as a result of two world wars. The so called (for a small group of countries and for the world elite) positive aspects of globalization stubbornly do not transform into the main feature of the non-criminal society – social equality. Globalization does not carry social reconciliation, but intensifies the social and economic polarization at all levels: the individual – social group – the society of a state – the international society. That is, globalization produces and increases the international conflictness, and, consequently, the international criminogenity, unfavorable outcome is quite probable for the global community. These obvious international criminogenic threats with the minor exception⁸ are not placed in the center of the scientific interest of criminology. To a marked degree, this happens because methodologically and on the subject of science criminology still exists in another, the “national-state” niche. One can say that being different in their ideology, this science “does not suspect” about new opportunities in the detection and prevention of threats, which may be opened in front of it by the interested relation towards the problems of the world socium development. Even carefully studying, for example, of Osama bin Laden personality, or the phenomenon of international criminal grouping financing and arming, it is highly problematic to cognize the international criminal mechanisms.

⁸ See: Лунеев, В. В. Эпоха глобализации и преступность / В. В. Лунеев. – М. : Норма, 2007. – 272 с.

We cannot agree with the existing attempts to show that the estimation of any action as a crime is transient. Criminal acts in their overwhelming majority are based on sustainable social environmental factors and not less sustainable negative personality traits.

Encroachment upon human's life and health, honour and dignity of the human being, existing constitutional system in a state, public order, official duties realization, economic activity, plundering and other forms of taking possession of another's property against the will of the owner – these acts almost exhausted the maintenance of criminal laws. Similarly in the international relations colonialism in its legitimate, latent and half-hidden forms has always accompanied and continues to accompany humanity either as a crime or as a criminogenic factor.

Taking into consideration that the international community as special social integrity being in the process of its formation is endowed with different from a state society qualities, criminology should pay to them more attention. There arises a necessity to analyze those stable factors of international life, the knowledge of which would contribute to the substantiation of the process of criminalization of the whole series of actions reinforcing the international social polarization and conflictness. For example, the real conditions for self-determination and independence, a fair division of labour, access to resources, technology etc.

If to consider the specifics of the criminality in general, we should take into account that it is a result of conscious violation of certain prohibitions. The protection of the norm by the criminal law gives it a new quality. Accordingly, the breach of this provision also receives the new quality.

The criminal punishment itself means that it goes about only guilty breaching of a criminal prohibition in conditions allowing other variants of behavior. The extreme necessity and self-defence, as you know, exclude the criminal nature of the act.

Looking back at glaring statistics characterizing the condition and dynamics of degradation of regions of the «third world», there appears an idea: is the terrorist struggle of the known radical groups and movements,

reflecting the full degree of social despair of these regions' population, a manifestation of extreme necessity and necessary defense against total latent colonialism?

Especially it is interesting considering the fact that in international law a definite direction appears to substantiate such kinds of processes.

The project of articles of the International Law Commission on state responsibility provides six circumstances excluding the wrongfulness of the action which, in the absence of such circumstances, is qualified as internationally wrongful and entails responsibility: consent, self-defence, countermeasures, force majeure, distress and state of necessity.

If to estimate the socio-economic situation of some regions of the "third world", especially in Africa, then it cannot be assessed in another way as disaster. And this also concerns the international legal characteristics of the specified concepts. Firstly, the situation of disaster arises when the crime committer did not have another reasonable way to save his life and the lives of those persons who are entrusted to him. Secondly, for the recognition of the situation a disaster it is necessary that the scale of disaster exceeds the scale of illegal action. It is obvious that on the background of millions of people dying from starvation, diseases and unsettled life of people because of both criteria mentioned above, there are grounds to commensurate the sporadic acts of terrorism with situation of disaster and to raise the question of in-depth of criminological research of the problem.

The same may be mentioned about the status of necessity. As the circumstances for exemption from responsibility for wrongful action, it is considered in the cases when such act is the only way to protect the existing interest from great unavoidable danger.

Isn't it the task of criminology to research the correlation of the international legal institutions excluding the wrongfulness of actions, with the situations of terrorist struggle, when in about 60-70% of cases a self-destruction is applied?

But criminology is unable to achieve the goal here operating by those scientific means and methods, which are at its disposal at the present time.

Criminological measurements for estimation of the status of the international environment, of the criminal “personality”, plunging of entire peoples into a state of disaster, and “personalities” of criminal, counterposing to this accessible to him method of murder of innocent people, should be carried out by using the “globalized” evaluations. This presupposes engaging of a wide spectrum of scientific knowledge. The modern criminology of system practice has no international analyses. However, only with such approach it is possible, for example, to clarify whether the Palestinians have another way of counteracting the military and economic power of the U.S. and Israel; whether is the interest of the Palestinians to create their own state according to specific norms of international law is vitally important; whether the scale of their disaster connected with the threat of loss of statehood and national identity exceed the scale of the terroristic acts, committed by their military groupings etc.

The answers to these questions and similar ones only criminology as international in its content may give.

Criminality is located on the edge of the negative social manifestations. The most general criterion of quality for all criminal manifestations is the following: socially stipulated, but at the same time guilty violation of criminal-legal prohibition representing the highest degree of public danger in comparison with other negative deviations.

The definite integrity, systemity of criminality as a specific social phenomenon is discerned also during the distinguishing of its substructures, analyzing the interrelation between them. With all the variety of approaches to the “fragmentation” of the system of criminality the one approach remains universally accepted: criminology researches criminality from the point of identifying its origin and organization of the struggle with it, and, therefore, the using of genetic criterion is permissible: the peculiarity of the origin of criminality species.

Application of genetic approach in the researching of crimes that are generated and formed in conditions of international relations, helps to cognize the “special” status of international criminality, which is inexpedient to associate with the general mechanism mentioned above of

“fragmentation” system of criminality, as a number of serious international crimes (aggression, genocide, terrorism, etc.) has a primary character in relation to crimes, arising within the national legal relations. Internationality is their decisive qualifying sign. In the system of international law essentially different is also a mechanism of determining and recognizing as criminal of the acts. This mechanism is a voluntary accession of states to various acts of criminalization through harmonization of their wills. The subjectness construction of international crimes is different too. And the case is not in the fact that the state as the main substance of the international community may be determined as subject of *corpus delicti* and bear responsibility under international law. Criminal subjectness on the *corpus delicti* of the international crimes has a different foundation for its formation.

The common (planetary) essence of foundations of international life, the high level of interdependence and deep mutual political, cultural and economic penetration of states and nations, accumulated by the overall resource base and ecological system, united by intentions of conquering the outer space and, therefore, by an increase in producing catastrophe of the different kinds of life process, cause the background for the formation of the concepts of general subject on the complicated serious violations of the international law. The mobility and flexibility of the institute of cumulative subject of international crimes do not deny the differentiated international legal qualification of its components and the determining the degree of their responsibility.

“Clean” crimes, where subject and object are at opposite poles of their *corpus delicti* (as it often happens in domestic law), begin to happen rarer in the international law. In process of increasing of internationalization of life this tendency will manifestly intensify.

Taking into account the mentioned facts, we may ascertain that relatively to the international criminality research, criminology, for maintaining of its scientific mission of clarification of the origin of this criminality and the organization of counteraction to it, has to acquire different methodological content. This difference is determined by another

feature of international law and lies in the sphere of determining of specificity of the subject of study, its methods and scientific instruments.

Criminality is being considered as variants of product of interaction of certain types of environment and personality. The most obvious variants here are such meaningful structures of criminality, as sustainable structure, in the origin of which the leading role is played by personality characteristics, and situational structure, in which the environmental conditions dominate.

In its turn, in each of these kinds of criminality two substructures may be divided:

1) in sustainable criminality intentional substructure (comprising also organized, professional ones) and actual-installing (which is characterized by instantaneous election by personality of the criminal behavior version in appropriate situation);

2) in situative criminality – victim-situative substructure (which is characterized with obviously unfavorable situation for committing crime, as well as with specific guilt of a criminal of creating or getting into such situation) and accidentally situative substructure (when complicated situation of crime committing was created independently from personality committed a crime, and was for him unexpected and unusual).

The ground for interconnection of these substructures of criminality is, in fact, criminal activity in its development. In case of certain miscalculations, one kind of criminality generates others or affects them.

Thus, under miscalculations in struggling with criminality part of the population may respond to the escalating of criminality either by counteracting it (but in criminal forms), or by adapting to it. The demonstration of such a reaction to miscalculations of the international community in the fight against international delicts of colonialist and neo-colonialist content is the origin and escalation of terrorist activity, which forms as a result the global terroristic conflict (terrorism).

Thus, it is important to emphasize that the overall interrelation of the mentioned above four substructures of criminality (intentional, actual-

installating, victim-situative, accidentally situative) is based on their common determination by society.

But apart from mediating by society interrelation the various substructures of criminality may be connected directly to each other.

Namely the spontaneous interrelation, the interaction of different substructures, elements of criminality determines the existence of criminality as relatively independent, specific social phenomenon, systemic quality of criminality.

That is why the fight against criminality must possess systematic, comprehensive nature, since for a long time the fight against terrorism, in fact, rather stubbornly, turns into fighting with terrorist acts. At the same time the significant geopolitical and geo-economic reasons of this criminal phenomenon remain inviolable. The practical absence of any significant results in these circumstances seems to be logical, and it is evidenced by the escalation of terrorism.

In general, the inviolability of the indicated and other canonical truths of criminology are destroyed by nonstandard manifestations of international life, criminological aspect of which, unfortunately, does not become the subject of active study of the science. The interaction of different substructures of criminality in international realities may have confrontational nature, generating in its turn the new crimes or new kinds of criminality.

Such a counteractional symbiosis of the colonial and the post-colonial (in conditions of globalization), plundering of territories and states, on the one hand, and reciprocal rebel aggression with the use of terroristic methods of struggle – on the other hand, lead to one of the most serious crimes under international law – terrorism.

Identification of new issues not fitting into the canonical achievements of criminology requires non-traditional solutions to resolve them. In this case the research and substantiation for the implementation of international legal idea of qualification of aggregate subject of corpus delicti of international crime of terrorism is proposed.

Similar disorientation concerning the subjects of impact from law's side happens in sphere of ordinary criminality. For example, this occurs when the influence does not concern the subjects oriented on criminal standards of behavior (consolidation of public order on the streets, squares, parks).

Since criminality is the social system, it possesses characteristic features of such system: purposefulness, openness, self-determination and the development concerning miscalculations in the fight against criminality.

The specific purposefulness in criminality can be identified either in achieving socially dangerous, illegal purposes (production and distribution of drugs), or in achieving in general purposes that are not prohibited by law, however, socially dangerous, wrongful methods and means (terrorism activity, aimed at protecting people's right to self-determination).

In the sphere of international relations, where the determining factor is a state, the criminal result (socially dangerous consequences), including explicit direct one, may be formed not only out of illegal purposes, but also outside of the international illegal and criminal actions (catastrophic impoverishment of population, the critical status of ecology, etc.). In international law, the traditional status of “non-recognition” of criminality, its certain manifestations and forms lead to deformation of the world social organization. Thus, for instance, outside of regulatory impact of international law through the efforts of certain state and interstate systems, the phenomenon of “financial civilization” is built, which underlies the trends of the world crisis. In the same manner to the global social disorganization “outside the criminal” development of virtual economy steadily leads and other factors.

Consequently, for the international criminology often arises a problem of criminalization of state's behavior and its activity.

In fact, the thing is that the world at significantly degree has been developing according to the criminal scenario, which, in such quality, is not officially recognized by the international community. For this purpose

persuasive international analyses are necessary, i.e. scientific instruments of international criminology.

In social interactions criminality appears as open system, but not as “strict” system. It adapts to environmental conditions, is ready for change, though within certain limits. In general criminality is self-developing and self-determining as self-governed system. There is also the effect of self-production of criminality through conservation, adaptation, of the criminal contamination and so on.

Criminality in its opposition to the society creates a peculiar system of self-defense. In the international sphere the foundation of such protective system of criminality its mimicry under legitimacy constitutes, that is historically formed. Consideration and knowledge of the system are important in terms of the fight against criminality.

Leading role in the perception of the new information and responding to it in the system of criminality definitely plays intentional criminality, and in it – a professional and organized criminality. It is obvious that the development of international criminality becomes possible not just as a result of miscalculations in consequence of absence of appropriate criminological system. It happened that a lot from international life that does not keep within the traditional framework of criminology simply have remained without criminological, and, consequently, criminal legal estimates. International criminality, as a systemic phenomenon, has achieved high degree of perfection. This in significant extent became possible, because the systemic criminology has not contrasted its possibilities to it. There are no such accompaniment and control of international criminality, the level of which is being able to be kept criminology of “national” level. But we say not about the primitive copying and transferring of categories, instruments and methods from the national into the international criminology. It's about imparting to the international criminology the new content, which would create the conditions and opportunities for the “mastering” of determination of international criminality.

3.3. THE DETERMINATION OF CRIMINALITY, THE QUALIFICATION OF ITS CAUSES

3.3.1. The concept of determination of criminality

Determination is the notion derivative from the word “determinant”, which in Latin (determinare) means “to determine”. Accordingly, “determination” means the process: stipulation, definition. That is in the determinism we are talking about determining general interrelations, about the interaction of all things, objects, phenomena and processes.

The word “determinant” in domestic turnover acquires the sense of the word “circumstance” that manifests itself as a unifying term for reasons and conditions. Condition is the thing that does not generate criminality or a crime itself, but affects the processes of generation, participates in the determination of criminality. This is a complicated interaction of various forms of connection, not only the causative, but also functional, statistical ties, connections of status, etc.

Functional dependence reflects the objective compliance, parallelism in coexistence and changeability of two factors: unemployment, for example, generates theft and destruction of public solvency. Communication here is not causative, but functional, since both phenomena are derivatives from unemployment.

Statistical relationship consists in the changing of nature of the one factor's division depending on another (the increase of criminality depends on population growth).

The variety of statistical connection is correlation dependence, which assumes direct or inverse proportionality of dependence: it is correlation dependence that defines a particular sphere of search and may testify the causal relationship. But it is necessary to take into consideration that such a connection in most cases is complicated, is mediated by other circumstances (for example, the correlation between the general

criminality, juvenile delinquency and criminality of persons who neither work nor study).

Connection of conditions is characterized by the fact that one condition of any phenomenon at the moment, in concrete conditions, necessarily determines the status of this phenomenon in another moment.

For example, terrorism, if not to take measures of socio-economic nature, acquires the escalation and may transfer into a state of nuclear terrorism.

Thus, by itself, manifestation of the fact of interrelation of criminality with any other phenomenon or process must not be considered as sufficient. It is also necessary to determine the interrelation's nature that is exactly generated by criminality.

In the correlation of dialectical determinism one of the fundamental principles is the principle of universal interaction. Although, indication on the interaction as such has no effect. It is necessary to analyze its parties, the process of its realization, and also the estimates of how parties of the interaction change.

Causality is considered as one of the forms of universal interaction, as one of types of determination, which means only the genetic, productive relationship. Here the fact reveals from which this phenomenon originated, how the processes of its origin proceeded, the fact of the connection between those who generated and those who were originated is established.

Determinism, proceeding from the fact of the causal origin, explains why the corresponding process took place in a certain way, why exactly this phenomenon arised, and which the conditions of occurrence and measure of stability of the corresponding process are.

For example, only during the causative clarification it establishes the reasons of the origin of criminality. And in wider deterministic approach it becomes clear why criminality not simply exists, but exists at the present time in the shape of the advantages of its selfish part, why it becomes organized etc.

At wide deterministic approach, the criminality is presented as the result of ambiguous influence of any factors, complicated multi-dimensional determination, including the self-determination.

Consequently, the society with its contradictions, problems and miscalculations of social governance generates negative social deviations of non-criminal nature, which in the conditions of deficiencies in their fighting are capable in interaction with other social factors of stipulating criminality and its development.

Insufficient attention to the deterministic approach in research of processes and phenomena of international life has as its consequence underestimation of criminogenic components of market capitalism. More specifically, it has dominating illiberal form in contemporary international relations, in conditions of which the principles of healthy fair competition emasculate. Exactly with such a contemporary capitalist system we should compared the interrelation of all things, objects, phenomena and processes, first of all of non-criminal nature, producing the international criminality. Costs and sometimes helpless in fighting against international criminality are significantly associated with deficiency of qualified determinations that affects the quality of criminological research or explains their absence in this sphere. The free-market capitalism, in most cases, is studied unilaterally, with help of political or economic science through sociological research etc. And only at insignificant degree the criminology in its complex, coordinative, with reference to involved spheres of knowledge and their organization, nature, understanding participates in it.

Meanwhile, it is only criminology, according to its organizational-coordination essence, by the best way meets the requirements of determination approach in the research of international criminality. According to some degree of conditionality it may be emphasized that establishing of the causality of criminality is primarily a prerogative of separate sciences. And the research of criminality's determinism more fully its purpose corresponds, especially it is noticeable in the sphere of cognition of international criminality.

Exactly that happens with terrorism. Ineffective (extrasocial, extraeconomic, extracultural etc. at the international level) attempts of problems solving of fighting terrorism lead to new phase of its escalation. This phase is stood out for burdened characteristics of terrorism as criminal phenomenon. The scale of a criminal phenomenon, in its turn, presupposes the enough noticeable impact of terrorism on state of society, which becomes more radicalized and conflictual, the temptation of terroristic regulativeness arises. The danger of such state of society may play a constructive uniting role around the problems solving, which, in fact, were opened by terrorism, that predestinated their nature and forced to seek social consensus in their decision. However, we can not exclude the development of events in the direction of the international social explosion.

In other words, this phenomenal criminal phenomenon appropriates to itself the function of defining the determinations and in the ultimatum form “formulates” the dilemma for the international community.

This state of affairs indicates on the real crisis of systemic criminological approach in researching of international criminality and organization of fighting with it.

It is important to emphasize that similar processes of criminal regulativeness very favorably develop in conditions of capitalist illiberal world system. They are, on the one hand, born by this world system and its defects, but on the other hand, they create conditions for the reconstruction of the world system.

Thus, in studing the criminality's determination the specifics of social determinism are important. Its main peculiarity consists in the fact that all ties in the society appear in the form of relationships between people – purposeful communications. Transformation of possibility into reality happens with active participation of people.

That is why in criminology considerable attention is payed to the interaction of the social environment and person.

The notion of social determinism concerning international reality (environment) covers the complicated complex of problems and factors

requiring for their cognition additional scientific efforts of mastering international scientific areas of knowledge.

3.3.2. The causality in criminology. The interaction of environment and personality

In the general understanding causation means “to produce something”.

Causality is one of the kinds of communication of things and phenomena. This is a productive relationship (“genetic”), that is determining the fact of origin of some phenomenon, process. Peculiarities of causal relationship consist of the following: a cause by producing an action generates consequence [15, p. 50]. The sphere of action of cause includes, first of all, the stages of motivation and decision making, when it goes about formation of motive, goal, determining of ways of its achieving. And the choosing of specific instrumentalities of crime committing is significantly determined by conditions. But conditions as such do not generate consequences; they transform the possibility of committing crime in reality, when the causes begin acting.

1) There is time sequence of causes and consequences.

2) A consequence cannot be the cause of the same cause.

For instance, terrorism as a consequence of social unbalanced society generates (if it does not have an adequate reaction on it) society with other characteristics – like it was formed in Somalia.

3) There exists unambiguous correlation of causes and consequences: the effect of one and the same cause in the same conditions generates the same consequence. On this basis, for instance, we have reasonable grounds to argue, that the cause of terrorism is a the conflict of civilizations.

4) The cause is not to be reduced to the consequence. The consequence does not repeat the cause; it is the result of transformation, the changing of object.

At different stages of criminology development we may observe the advantage of the certain approach to determination of causality. There are

four such approaches. These approaches are distinguished by philosophers as universal for any sphere of scientific knowledge [9].

The conditionality approach, that is conditional (from the Latin word “condition”), presupposes the comprehension under cause the necessary and sufficient conditions of this consequence. In other words, it concerns the aggregate of circumstances in which the consequence took place.

This totality in different versions is expressed by the so-called multifactorial approach (C. Lombroso, E. Ferry), which originated and developed as alternative of single-factor approach. In single-factor approach, criminal behavior was associated with any single factor (E. Durkheim’s anomie) and that is why there appeared statistical and other dependencies between them.

It is obvious that criminology differentiates one-factor and multifactor approaches in criminality estimation. However, such approaches have different content in the conditions of immanent criminal-legal estimation of act (performance of single legislation in a state) and the transcendent estimation, when in the international legal sphere different legal systems and various legal families act, that is grounded on different cultural-civilizational bases. In contrast to “national” criminology, where the content of multifactor's nature may be agreed through the comparative criminology even among states [24], in “international” criminology such multifactorial nature should be adapted to concrete result – mutually acceptable norm of international criminal law. This, in its turn, requires certain international criminological standards. All the more, that even the theoretical achievements of criminology, which are universally recognized, are not always realized. Especially this concerns international criminality.

Nowadays separate experts of terrorism try to interpret terrorism as consequence of poverty, or, what is worse, as the manifestation of aggressiveness of certain radical social groups. In the last case, there is a real confusion in determining of cause and consequence.

However, the determination of only one factor, even more complicated and more important, as causative does not clarify the origin of criminality in various conditions, especially in the international life. Such

determination is permissible only as separate methodological procedure, but not more.

Determining the causality of international crimes is complicated by availability of significant conglomerate of world cultures producing different criteria in the sphere of morality and law, and even different legal systems: the so-called Roman-Germanic, Anglo-Saxon legal families, systems of law, that are based on the shari'a, Confucianism, Buddhism etc.

All this generates various approaches to the criminalization of certain acts of international life's participants. Complexity consists in the fact that for community of states as main subjects of international lawmaking such multifactorial set of circumstances must be highly convincing for achieving certain level of agreement in adopting of some important norm by way of harmonization of their wills.

Criminology, unfortunately, avoids this specificity. Not elaborating certain system approaches and standards relatively causativity of international crimes, such criminology thus evades from solution of problem of creating the basis for adequate international legal norms primarily in the branch of international criminal law.

Nowadays the multifactorial approach is rather wide-spread. It manifests itself through orientation on objective and subjective causes, anthropological, social, space ones etc.

In principle, exactly the conditional approach in one-single-factor or multifactorial embodiment develops at the early stages of of science formation. It is inherent for accumulation period of facts about the circumstances interrelated with criminality.

However, under this approach there is practically no analysis of the character, mechanisms of interrelation of different factors, circumstances, as well as mechanisms of their relationships with criminality, that is, in what kind of connection – causal, functional or other – these factors stay with each other.

The necessity in such mechanisms of relationship significantly determined the origin of traditional approach in criminology. In traditional

approach the cause of this consequence (crime, criminality) is the external force impact.

This approach is applied in the analysis of causes of particular crime or separate kinds of criminality. It (this approach), in particular, is seen in victimology.

For a sphere of international life, where the layering and interweaving of events, phenomena and processes is not only significant by scale, but is also saturated according to its dynamics. The traditional approach meanwhile finds no proper application. Since there are no well-grounded targeted (relatively specific crimes) analytical researches and corresponding recommendations of traditional nature from criminological science on the subjects, it is not surprising that in international criminal law simplified, one-dimensional by their content norms and provisions appear. Yes, the main kind of terrorism of nowadays - the bombing terrorism – is qualified in relevant Convention as consequence of illegal and intentional delivery, placement and activation of an explosive or other device of lethal kind within places of public use, state or governmental objects, object of public transport system or infrastructure facility [7].

Figuratively speaking, criminology allowed international criminal law to grade the complicated criminal mechanism of the most dangerous international crime to the level of the ordinary commonly dangerous criminal act. If to be precise in terminology, this Convention defines the fight with one of the means, which is used in the terrorist activities only by one party of terroristic conflict (terrorism).

Meanwhile beyond its attention the series of interconnected geopolitical, geoeconomic, international, sociological, cultural and other factors remained, which to certain extent were included into interaction with terrorism (using it in a globalistic maneuvers), extremely intensified in conditions of globalization and tear the planet in the cruel conflict. Although complex of similar factors still generates terrorism as ultimate radical manifestation of this conflict, they remain without adequate attention of criminology.

The actuality of this and similar problems is also conditioned by the fact that the application of the traditional approach in criminology practically never realized in its pure form, because within this approach it is impossible to answer the question: where does this external influence originate from? That is why it is often interfaced with multi-factorial approach. But with such interfacing cause and condition were not completely differentiated.

Philosophers mentioned the value of the traditional approach from position of conducting of experiment.

Consequently, it is obvious, that the direct involvement, as the qualified sign of traditional approach, cannot find the correspondent application in conditions of multi-level and large-scale international relations. In order not to allow the primitivization of estimates of international crimes and defectiveness of international criminal law norms, the criminology should establish the appropriate system of criteria and take certain acts of international sphere out of zone of simplified causal and consequence perception. For instance, we must put the end to primitively estimating the increase of drug-related crimes in the world only as consequence of increasing volume of poppy crops in Afghanistan, of coca in Colombia, etc.

Taking into consideration the facts mentioned above, for studying of international criminality we have to focus on the criminological approaches of complex character. Such is the third approach - traditional-dialectical.

According to this approach, the cause is all generating the consequence. With this approach the notion of immediate cause of crime is associated and its subjective moment - social psychology, the characteristic of personality.

Traditionally-dialectical approach, not covering the whole mechanism of the causative complex, still distinguishes in it the objective and subjective factors, simultaneously representing their influence as sequential and unilateral: the material conditions of life of people determine the public consciousness, and it determines criminality. From this the evaluation of social psychology as immediate proximate cause of criminality appears.

For criminology of international sphere such evaluation has to be elaborated considering distinction and qualitative features of psychology of national and international society, their interactions and interrelationships.

Traditionally-dialectical approach has the advantage over previous ones, but it also does not take into consideration, that on criminal behavior not only the environmental conditions influence, which have previously gone through the consciousness of human, but also the new ones, which have emerged and started acting precisely in situations of such criminal behavior. They often are unexpected for human and society.

That is, we should talk about the causes of criminal behavior and criminality as about interaction of environment and human. This constitutes the essence of the fourth approach of causality from the position of interaction – interactionist approach.

In international reality the above-mentioned environmental conditions, in certain cases, are so significant for nation, states, and for the international community in general, that their qualified international criminological evaluation could produce as a result separate principles of international relations. For example, on the opposite sides of terrorism intensification and fighting it, the phenomena of popularity and even legitimisation of terrorist organizations “Brotherhood” (Egypt), “Hamass” (the Palestinian Authority), “Hezbollah” (Lebanon) appeared. The last one, in fact, became the main structure of the state mechanism.

However, presented conditions of environment and other ones arised in situations of criminal terrorist behavior did not and probably could not become the subject of criminological studing.

It seems that the creative use of traditional-dialectical approach concerning the sphere of international relations by its consequence may have quite substantial transformation of criminology of international nature. This primarily concerns taking into account of the conditions, arised in situations of criminal behavior of such level.

For example, the appearance of, in fact, new national-state formations, which have formed or function in situations of large-scale piracy (Somalia), terrorism (Kenya, Israel, Palestine, Lebanon), drug trafficking

(Afghanistan, Colombia) cannot be left without attention and requires non-traditional scientific methods of criminological studying and prediction of the further development.

However, such a new dimension in the criminological science is objectively is not formed within the traditional methods and subject matter of this science.

Criminology of international sphere is interested not as much in the relationship “individual – society”, as in psychology of national and international society, their relationships and interactions. This requires the using of opportunities of contiguous to law sciences of international sphere, which are involved by criminology not completely.

Some developments in the research of such criminal generation of international community’s defective development, as terrorism, confirm the necessity for establishing of international criminology. It should be emphasized that these achievements were obtained not only due to the sciences of criminal-legal cycle, but also largely thanks to studyings in the sphere of psychology, politology, sociology, international relations, culturology, international economics, conflictology, etc. It is clear that scientific results concerning studying of terrorism become possible due to the use of many related to these sciences non-traditional (for criminology) scientific methods and instruments. That is why it would be quite logically to unite such international scientific efforts and opportunities under the aegis and, in the interests of criminology, with the purpose of researching and taming of terrorism and other dangerous international crimes.

Of course, for international criminology it is insufficient to orient itself even on such effective approaches as traditionally-dialectic or interactionistic ones, and mechanically adapt them to the international scale of public life, or simplistically transfer in the international reality. Criminology here should choose scientific methods and instruments of different order than those, which are used at the present time. Taking into account international nature of sciences, which generated such instruments and methods, criminology should use the categories of global nature, should cognize and take into account the geopolitical situation, geo-

economic processes, should research tendencies of development or anti-development of qualitatively different society – the international community.

Since it is obvious, that it is impossible to cognize in fully the genesis and mechanism of international criminality with the help of scientific methods and instruments oriented to research of individual, certain social groups and state society as well as the indicators of the appropriate environment.

All the more so that the scientific dialectical approach does not support in general the simplified understanding of relationship causes and consequences, of artificial isolation of the separate forms of interaction. G.W.F Hegel and the other great dialecticians noted that “the whole great course of development exists in the form of interaction” [18, p. 420].

Philosophers say that the general universal interaction in society and nature is a totality of various interactions of paired things, phenomena. That is why it is natural to consider such binary interaction as the cause, and the change of things occurring as a result of interaction of things, phenomena – as the consequence.

Interaction is characterized by dual unity of active and passive parties and their complementarity of each other. Here such items are distinguished: 1) the interaction of external and internal; 2) the internal interaction.

Exactly in such a way, perhaps, we should consider terrorism as the interaction appearing in the form of the definite system of causes and consequences, coming under the influence of causes in certain conditions. Pair interaction as the determining cause appears in terrorism in the form of global terroristic conflict between the two social mega-groups, one of which is in general represented by group of economically developed countries, and the other is represented mainly by states of the so-called Third World. But the peculiarity here lies in the fact that this antagonistic interaction between social and economic causes and its consequences – terrorism activity in general – constitutes the international crime of terrorism. Thus, acts of terrorism as consequence of certain kind of causes and conditions, interacting with them at new qualitative level, form

complicated structure of terrorism as crime under international law, which is based on the totality subject of this structure. And this is perfectly differentiated with the idea of the defining terrorism as a global terrorist conflict [2, p. 118-162].

Understanding of sense and content of the paired interaction of causes and their consequences – actually, of terrorism – became possible through the study of global conflictness due to conflictology's scientific instruments. Moreover, these scientific instruments became functional on philosophical basis with the participation of geo-economics, geopolitics, sociology, international relations, culturology, military and other sciences.

Outside such approach the terrorism is erroneously qualified as criminal, socially dangerous actions, criminally significant consequences of which appear as a result of explosions, arsons, capture of transport or hostages, etc. Such distorted results of “fleshless” criminology eventually lead to the distortion of content of the international anti-terroristic law.

The above mentioned interaction leads to a new, generating conflictness condition, when international social environment includes the terrorism with the whole its complex of “causative” elements of its structure as its component, and an individual in it is limited only by “personality of terrorist” that is, a person who has committed an act of terrorism. Personalities of other characters, with whom the main, “causal” part of this complicated by its criminality crime is connected, remain outside the criminal-legal influence.

In general, the causes of changes in criminality should be simultaneously viewed in all above-mentioned interactions. When talking about interaction, correspondences, characterizing its sides, we should take into consideration not as existing side by side, but as such, which reciprocally influence each other within the framework of single process, in particular spatially-temporal boundaries.

When studying causes of criminality we should analyze the interactions of wide (including international) social environment and population (of defined national-ethnic group), including those belonging to it different types of personality.

During the interaction of the social environment and personality their changes occur according to the principle of management on the basis of feedback. In the feedback the impact of result on the functioning of the system is embodied, in consequence of which self-regulation and dynamic stability of the system arises, as well as directionality of processes originating from it. Thus, the question of the causes of criminality consists in following:

- Why have the unfavorable situations arisen, in which statically crimes are committed more often?
- Why does the defined category of people choose just criminal variants of behavior in these situations?
- How has such category of people been formed?
- Why do the people choosing criminal variants of behavior manage to realize their decisions?

For answers we should formulate “causative complexes”, since simplification of analysis entails simplified recommendations for struggling with criminality following the example of the recommendations, which propose to prevent from strikes and disperse the demonstrations in order to combat with unemployment. For the purposes of combating against terrorism similar recommendations presuppose only political-legal, financial-economic and force actions on the removal and destruction of terrorist groups and networks, leaving in inviolability the basis of the complicated criminal mechanism of this criminal phenomenon, in which predominates causative component of corpus delicti of crimes.

Identifying causative complex is the basis of creation of program of combating with criminality, and determining of elimination in phases of various elements of causative complex.

Nowadays, for instance, it is impossible to eliminate too great differences of profits, but in this case, special significance acquires the fight against criminal profits as the basis for these differences.

Similar tactical measures may bring limited results, and for not short period of time. But if the number of human victims decreases in this time

period, then this worthes using interim measures along with strategic global measures.

Exactly as a tactical measure in the fight against terrorism, the problem of force countering the terrorist grouping is considered. As such groupings are criminal in their nature. They have a certain history, traditions and group belief in the inviolability of their business. They are characterized by the absence of any doubts concerning terrorist means of achievement their goals. Therefore, the acceptability of a military option (in order of emergency measures and concerning a certain specific category of people) in this case is not in doubt.

Crucial (strategic) means are the substantial changes in the arrangement of the world economy and social order for the international community.

The peculiarity of the terrorformational process is that certain factors and circumstances of the international political, economic and social relations, which are recognized as the cause related to their result – the act of terrorism (terrorist activity), «enriching» by the latter, are transformed into its final product – the terrorism.

That is, in general an important element for the fight against terrorism in the approaches to the determination of the causes of criminality is characterized by the fact that within the overall «interaction – determination» the «interaction – cause» began to release. Moreover, this approach is not only substantiated theoretically, but, in fact, is consistently applied in specific criminological studies of changes of criminality and its causes.

Thus, to be precise, it should be noted, that criminology studies the dialectical determination of criminality with an allocation of causality. It more accurately reflects the nature of criminological study. Directions to the dialectical determination emphasize the inadmissibility of a single-dimensional reason, verification of an unambiguous connection of the subsequent states of the system with previous ones, non-dialectical isolation and ejection from a common circuit and communication

complexes of two elements of a simple enumeration of the factors influencing criminality.

Consequently, the study and definition of determination in the international criminality is specific, caused primarily due to its objective characteristics, distinctive qualities of the arrangement of the international community as a common determinant, which embodies the reasons of international criminality.

Such specificity for its cognition requires a special (international) set of scientific instruments in order to figure out the criminality, which arises in the dynamics of modern life of the economic universe (Pax Oeconomicana).

Studying a crime, criminality, its determination and causality, criminology not fully determines its tasks and possibilities of their solution in the international legal system. As a result, a number of issues, resolution of which could improve the level and quality of counteraction of the international crimes, remained without an adequate criminological development.

1. Proper attention is not paid to the study of a problem of motivation, including the influential factor of a state subjectivity of international criminality.

2. A system differentiated basis of criminological researches of the determination of international criminality has not been established. It does not give an opportunity to delve into the key issues of global development in a full criminological cycle of its cognition.

3. Despite the criminal primacy of a number of international crimes and obvious feature of their functioning conditions, the content of the system of international criminality as an anti-system on the background of the international social system and the system of public international law as a subsystem of the latter, is not defined. This prevents the development of the relevant criminological techniques and methodology able to respond to the international specifics of criminality.

4. There is no proper development and elaboration of view about the international community as a single (strategic) determinant of international

criminality. Its separation into an independent scientific criminological problem and further intensive researches would provide a basis for cognition of system of international criminality.

Effective criminology in the scope of international criminality cannot take place without determining the substance and bringing into the system of those negative social consequences of international life, on the edge of which international crimes are formed and function.

5. A problem of a guilty violation of the criminal prohibition in the international criminal law must be subjected to a dept study. As the guilt of such offense and, therefore, the highest degree of public danger in comparison with other negative deviations, here comes from the state as the main subject of international law, there is a feasibility of studying the problem of state criminal responsibility in the modern conditions of hyperinternationalization of international life.

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Part 4.

CRIMINOLOGY IN THE SPHERE OF INTERNATIONAL CRIME

It is obvious that in the sphere of international law criminology has certain specifics and peculiarities.

They are primarily found in the subject of science, as international crimes have the primary international origin, international range and international theater of actions.

Accordingly, international criminality has specific characteristics due to the triune nature of its components: strictly international crimes, national crimes with an international element, and also national crimes (as a basic factor).

From this another set of specific characteristics of international criminology follows, associated with a need for specific research methods and scientific instruments on the basis of involvement of opportunities adjacent to law and to disciplines which are international in their nature.

Determination and causation of international criminality also have their own specific character. It lies in a triviality of social megaprocesses and events and is predetermined by the world order's defects, which are increasingly manifested in the modern active phase of globalization.

Preventing function of international criminology also has its own specific features. As the results of criminological researches have here global nature. Mechanisms of their implementation may operate under the favorable geopolitical conditions and require the coordination of wills and political decisions of the majority of states, especially powerful ones.

Consequently, there are different opportunities to respond to the causes of criminality within the framework of state and international community.

In the conditions of subordinational formation of state's work and its law the causation of criminality is eliminated by the set of legal, economic, social, educational and other similar measures (for example, within national programs).

The successfulness of realization of such complex of measures is predetermined by the distinctness of governmental vertical of power, by the distribution of corresponding functions between its branches, by the mutual coordination and harmonization of actions of the responsible authorities and individuals.

Relations in the international life and its regulators, in particular law, are based, as you know, on the coordination principles of relationships of its subjects. Therefore, even a clear statement of causes of international criminality here does not guarantee the voluntary consent of state (group of states) to identify them precisely with its foreign policy and economic feasibility, specific solutions and implementing actions. It should be noted, that first of all the large and influential states are in question.

Moreover, the causality of international crime is often associated with excess profits of transnational corporations and states. That is why its partial recognition does not presume significant preventing measures.

Thus, as a compensation measure concerning lack of hierarchy in the scope of international criminal law for criminology may be a direction to criminalization of causes of international crime and their involvement in the corresponding components of the crime as elements.

It is promoted by the denial of the principle "non liget" in international law and recognition of self-sufficiency and completeness of the jurisdictional capacity of international law [5, p. 7, 8].

4.1. THE “TERRORISTIC” ARGUMENTATION IN THE SOLUTION OF THE PROBLEM OF THE BRANCHING OF INTERNATIONAL CRIMINOLOGY

The “criminalizational” approach to solving the problem of eliminating the causality in international law is promoted by the fact, that in the majority of cases the origin of causes of the international criminality as such, is connected with the violation of the principles and norms of international law. The only point is to identify the cause with a criminal result, which in the modern international criminal law not always reasonably can be qualified as a true crime “in full” (for example, a terrorist act in terrorism).

In other words, being a reason for some internal element of a complex international crime, the same factors and circumstances of international life form the corpus delicti of this international crime as its elements.

For international criminal law, where crimes are characterized as processes, events (genocide, aggression, terrorism), this criminological observation is of particular importance, as it allows carrying out a difference between the international crime as process and the international crime as act. In the first case it can be, for instance, terrorism, and in the second – act of terrorism. “Terrorist” examples accompany such reflections not accidentally.

Indeed, the specific features and characteristics of criminology concerning international criminality are most clearly and convincingly shown on the example of analysis of terrorism as a crime under international law. The preference for “terroristic” conditionality of scientific reasoning in this paper can be explained by several reasons.

1. Terrorism is a crime with primarily international origin. In modern, threatening to international peace and security scale it arose and was formed on the basis of the criminogenic globalizational factors, and, therefore, shows the most typical defects of the world order.

2. The compliance of determinants of terrorism to those geopolitical, economic and social factors, that have caused the global crisis, is established during the comparative study of the genesis of this international crime on the background of the accepted theories of global development⁹, which have foreseen such crisis, and consider it as an integral part of the current world order's system and as a logical upshot of a global social conflict, that is in core of the crisis.

3. Existing studies of criminology of terrorism have formed the experience of formation of the criminological methodology of international interdisciplinary type and of usage of scientific instruments, based on the adjacent to law sciences (geopolitics, geo-economics, conflictology, sociology of international relations etc.), able to ensure the implementation of goals and tasks of criminology in this scope.

4. Such criminological researches of international character determined the content of a new scope of international law - international anti-terrorism law, which provides a mechanism of international legal regulation of the fight against terrorism. The basis of this mechanism is a formula of a joint subject of the body of international crime "terrorism", which found its approval by the methods and possibilities of international criminology.

Exactly an asymmetry of international polarization in the economic and social spheres, and, therefore, a striking contrast to the possibilities in resolution of interstate conflicts and internal conflicts (in which the parties of the conflict are also identified with the interests of powerful states), by the traditional military way, made the terrorist acts as its natural acquisition.

That is, a responding asymmetry in the means of struggle for balance (symmetry) in the issues of allocation and use of resources, technology and the benefits of civilization development is caused to life.

Terrorism, as a negative and extraordinary in its impact on society social and legal phenomenon, has been tormenting the mankind since the

⁹ See: Антипенко, В. Ф. Теории мирового развития и антитеррористическое право. Логика сопрягаемости : монография / В. Ф. Антипенко. – К., 2007. – 440 с.

60s of the last century. Society from the very beginning of systematic use of terrorism by social groups and extremist formations, which are protestly disposed, has felt an extreme danger of this phenomenon, related to the phenomenon of a social dangerous method of activity, lying in its core – a terrorist act.

As a response to a terroristic threat massive legal and enforcement efforts appeared at the beginning of the XXI century, especially after the well-known events of September 11, 2001 in the U.S., along with the strengthening of the legal capacity of states and the international community to combat terrorism. Noteworthy is that the epicenter of these measures was formed itself (at place and nature of the events) exactly in the international space. And it is logical, as terrorism has clearly distinguished itself as a crime under the international law and over the time was qualified by a large majority of professionals.

Nature of terrorism was considered as obvious. Without violating the canons of the “society of equal possibilities”, it was incorrectly identified with radicalism and extremism of certain politicized groups and individuals, such as the “Red Brigades” (Italy), ETA (Spain), the Red Army Fraction, Baader Meinhoff (Germany), “Action Directe” (France), Tupac Amaru (Peru), Sandero Luminoso (Colombia) etc. Exactly on the basis of such miscalculations a fight with international terrorism has expanded, including the international legal system.

Over the time a tragedy of this error had emphasized on the results of the fight and, in fact, became clear due to their absence.

So, the escalation of terrorism is obvious and out of logic, despite the measures used and billions spent to their implementation. The effectiveness of the international anti-terrorist law also to put it mildly leaves much to be desired.

And this is not accidently. Variety of reasons of political, social, economic, and military character concerning the terrorism invulnerability and its evolution into a planetary threat can be found, but in terms of the legal science, its criminal-legal cycle an obvious reason is a neglect of criminology. And we are talking about such a criminology which, taking

into account the specificity and magnitude of a threat, would be able to adapt to the international nature of problems of the terrorist crime, “to form itself” under its specific features and to get into the social content of the processes, on which terrorism is based. The need for such a “specified” criminology is dictated by the need to determine the generally accepted definitions of terrorism and terrorist crime, which would be based on deep criminological researches of international socio-economic causality of terrorism. Only on the basis of engaging such purposeful criminological mechanism we can hope for the expected result in the form of recommendations for international law, and international law enforcement agencies from the international economics, political science, sociology and other sciences adjacent to law.

It should be noticed that international criminality, interacting with the environment, which is formed in the international space, and negatively affecting its status, is subjected itself to the reverse effect, getting more absolute and more adapted qualities to the environment. Even that component of international criminality, which comes from the “national” crimes, not simply transforms into another international dimension. Crimes of this category also acquire new qualities and “participate” in the formation of the world order, its crisis orientation. To a large extent, it determines the content and specificity of criminology, designed to investigate such criminality.

With regard to the role and place of terrorism in the world community, the situation is much more complicated for its criminological understanding.

On the one hand, terrorism is a product of the deformational development of the global society, which was compounded in the conditions of a general crisis. From this point of view, terrorism, being a significant evidence of the crisis, at the same time is its part, and also a catalyst. In the conditions of global system’s crisis, it is difficult to find out an alternative to the international anti-terror mechanism, which is based on the concept of the joint subject. After all, the current possibilities of a substantial effect on the nature of the crisis by the political and legal

decisions are questionable, since such decisions are based on the forces, which actually embody a world system suffering from a crisis, which is far from being perfect.

Efficacy of the legal component is also questionable. The political effect of the named forces on the existing international anti-terrorism law, made it, in fact, an additional irritant of a global terrorist conflict. This, by the way, is the other evidence and a sign of the crisis' deepening.

On the other hand, terrorism, being an extreme, brutal form of a social signal about the possible crisis catastrophogenity, is characterized, at the same time as a self-sufficient system phenomenon, standing outside the world system functioning, and counteracting to it, or rather to distortions in its social and economic mechanism.

By this, the fact that criminology as a traditional science of the causality of crime is not able to cover the full range of determinants of terrorism as a crime under the international law, which is unprecedented in its complexity and diversity may be explained. That is why a significant is a commitment of criminology to squeeze terrorism into the "bed of Procrustes" of transnational criminality (as its variant) and to evaluate it according to the appropriate criteria and methods. It leads to the distortions of the essence of terrorism, its place and role in the international social life and, most importantly, disorients concerning the forms, methods and opposite reaction to this international crime. As a result of this approach, the international legal counter-terrorism measures and norms continue to develop by an erroneous way, qualifying elements of the body of the international crime as the causes and conditions, and focusing on the criminalized by national legal standards social dangerous criminal acts. As, in turn, such causes and conditions in the international law are often the offenses (international torts), so they remain outside the purview of criminology as a sphere that is (supposedly) controlled by it. In this way, there is a fairly common practice of leveling functions of criminology, when an international criminality is transformed into an international tort or even goes to the scope of violations of international morality. The real

causality of international criminality, which is covered by this veil, is not properly researched.

Moreover, terrorism is difficult to adjust under the “standards” of existing criminology, as it turns into a self-sustaining factor in international life and has formed its “own” criminological reasoning which, figuratively speaking, must encourage international legal mechanisms to operate in the opposite direction from that, which is proposed by the “traditional” criminology. Taking into account the abovementioned things, it would be logical to assume that decoding the phenomenon of the forces of terrorism, its planetary scale is lied in the area of the specific direction of criminology, which should be additionally armed with the relevant international (“globalized”) tools and methodology.

Exactly such international criminology has a perspective and ability to assess this criminal international phenomenon as an established factor of international life, to show the inevitability of forming in the process of fight against terrorism of the common planetary interest of the international community concerning the search for a global social consensus. Not being limited only by recommendations as to ways of a normative regulatory control of the fight against directly terrorist activities (it itself is doomed to fail), such criminology will result an equilibrium international counter-terrorist legal model. This model through an adequate criminalization of the conditions and causes of terrorism, their evaluation as the elements of the body of this international crime, is designed to indicate an optimum maintenance of norms of the international anti-terrorist law, which would be able to cover this criminal phenomenon in its full complex of geopolitical, geo-economic and international social components. It is at the same time will promote the formation of the core for the presumption of social justice in the international life and will serve as a guide for the creation of criminological approaches to the studies of the international criminality in general.

Thus, the question is about the relevance of the branching and allocation as a tendency in the science of criminology – the international criminology of terrorism. This question is not easy even in the

terminological sense, as it is necessary to determine whether there are grounds for the introduction of this new term by adding of two clarifying terms as “international” (criminology) and (international criminology) “of terrorism” to the generally accepted notion of “criminology”.

The last ones are intended to indicate not only a specification of the subject of science of criminology. Semantic load of two additional terms is in a statement of another subject, which differs from the one defined in criminology, as it is based on a separate distinct system of law – international law and goes from the most important and specific scopes of this system of law – the international criminal law and international anti-terrorist law. Also the term “international criminology of terrorism” quite conclusively points to the fact that criminological science of such maintenance claims to special methods and cannot be satisfied with traditional scientific tools, as it suggests the involvement of sciences of international nature.

Thus, it is obvious, that the “general” criminology, standing up with the problem of incomplete compliance and lack of opportunities in relation to a substantive study of the genesis, nature and tendencies of international criminality, and especially the terrorism as a dangerous international criminal phenomenon that forms the primary and sustained threat to the international peace and security, should follow the logic of the development and specification of the legal system, to which it “serves”. This would ensure the “sighting” of the criminological science, conformity of its results and their profit in providing the functions assigned to international criminal law and international anti-terrorist law.

However, it would be untimely to assume that the issue is in a separate area of criminal law science of criminology. As it was noted above, it would rather be pointed out the possibility of formation of the international criminology as a branch of science of criminology, its individually specific tendency.

In this case arguments, used on the basis of criminological researches of terrorism, have a double function. On the one hand, due to the cogency of arguments that are generated in the field of criminology of terrorism, it

was managed to create and propose the concept in the scientific field of international criminology.

On the other hand, criminological studies of terrorism also play a self-generating role.

The results, especially the technology and methodology of researches also indicate the existence of grounds for the formation of an independent tendency in criminology, painted out by the actual terrorist characteristics. This relevance is indicated by the coverage of virtually all spheres of social life, and by their timeless character, because terrorism represents the specificity of a social conflict, which is qualified in science as a permanent category.

4.2. INTERNATIONAL CRIMINOLOGY AS A CRITERION OF THE SEPARATE LAW SYSTEM

Raising the question of the need of international criminology in general and the international criminology of terrorism, in particular, we have in mind not only and not so much the symbolized nature of results of the decision, which would allow to streamline the studies' directions and to accomplish them more single-mindedly. If the problem was only in this, it would not be worth a separate study, and could be resolved by the organizational way, for instance, through a certain gradation and classification of the researching areas (which, incidentally, are realized in some way).

In the definition of approaches to the resolution of a problem regarding the allocation of international criminology it is necessary, above all, to determine whether there is such a problem and why it occurred in general. Unambiguity of a positive answer to this question is based on a basic unsatisfactory assessment of the condition and results of the fight against transnational criminality and terrorism. Despite the acceptance of the important legal and institutional measures the international criminality, and especially terrorism, are steadily growing and gain a threatening range

and content to the international community. Two interrelated reasons for studying the effectiveness and consistency of the problem of criminology are associated with this assessment. Firstly, it is an unsatisfactory condition of studying and assessments of international criminology, and, secondly, the lack of well-defined methodologies, techniques and tools for understanding the origin, causality and specific content of international criminality. The situation, when a well-known category of crime is defined as international and is wound up in the jurisdictional area of a separate scope of international law (other, than a national system of law) – the international criminal law, and a science (criminology), which studies the origin, causality and possibilities of the effective fight against this international criminality, based on the criteria and approaches, produced by the national criminal law and for its own research, looks not only illogical, but evidently discrepant.

4.2.1. The scientific aspects of the problem of branching of international criminology

In the doctrine the view that international crimes go from criminal offenses and came to the international law from national criminal law is confidently refuted. It obviously turns out by the analysis of the history of formation of the majority of international crimes (for example, aggression, genocide, apartheid etc.). International legal instrument related to these actions was primary and only after its adoption there was an inclusion of such categories of acts into the range of criminal under the national law [1, p. 24].

However, these causes are important, but still they are secondary causes of the problem. Its roots lie in the unsatisfactory studying of the international criminality on the background of increasing of its threats to the international peace and security to the level of catastrophe.

“National” approach in criminology causes harm to the researches of causality and content of the global danger, which goes from such serious international crimes as terrorism and aggression. This preliminary

conclusion can be refuted by the fact, that to the national penal codes of some countries even before the Second World War, when the modern concept of international crime was finally formed, there the terrorist act against a representative of foreign state and the propaganda of war were included.

However, a detailed criminological consideration of this example attests in favor of the thesis about the “independent” criminality of international crime. After all, the criminalization of the actions above took place within the category of “crimes against a state”. And it was not carried out in order to ensure the criminal protection to the foreign governments through their representatives or to the international peace. Its goal was and remains to this day to protect the interests of that state, which suppresses such crimes. And such suppress is claimed to help to avoid the possible consequences of such actions, which may, under certain circumstances, adversely affect the international relations of a certain state. And a victim of such crimes is believed to be not a foreign state, not the international community, but a state that has criminalized such actions [1, p. 25].

Thus, we should go from the fact, that international crimes of individuals do not and cannot have a primary domestic value. National criminal law does not regulate and directly does not protect the relations between states and peoples. And if international relations cannot be the general object of the criminal offense under the national law, they, therefore, also cannot be the object of a criminal offense under the national criminal law. For example, the world as the object of a crime against peace and international security may be a subject to regulation only to international law. The responsibility of the perpetrator of a crime against peace comes into force in order of personal international responsibility [1, p. 25].

There is no consent even in the definition of commonly accepted notions of such globally dangerous crimes as terrorism and aggression. So what is the price in such circumstances of that “embittered” battle, which, in particular, is being held against terrorism in the international area? How is it possible to turn out systematically the international legal instruments

and to regulate the fight against a crime, the essence and the qualifying structure of which is not recognized?

Not surprisingly, that from this “influence” of criminological science both terrorism and armed aggression on the planet are only amplified. Due to this there is a question again whether a criminological science that created (or not created?) a theoretical basis for these results, or rather for their absence, and in some way maintained a reverse effect, can be considered integral and self-contained.

Because of the deficit of the international component in criminological analyzes, some inaccuracies and contradictions in the political-legal and legal assessment of the events and facts of international life that form the basis for discrediting the international law as a legal system in whole, increasingly appear.

But is there another way to call the estimations of the situation in Iraq, than as a deformation of international criminal law (and, of course, criminology, which has produced this deformation or, at least, allowed it)? At first the Congress, and later the President of the United States Barack Obama defined such actions of the anti-terrorist coalition in Iraq as mistaken. The vast majority of international lawyers believe that it is an aggression related to a sovereign state. Meanwhile, both in the international politics, and in the international law there is a dominating approach, according to which the terrorist criminals threatening to the international peace and security are determined only those, who on the territory of Iraq, in fact, combat the international crime or, at least, “fix” a generally recognized “error”! And only on them the international criminal law concentrates its possibilities.

There is no doubt, that the Iraqi insurgents act as criminals under the international law, but there is also a question about the criminological assessment of this “error” and following from such assessment international legal qualification of acts forming it. Consequently, including an obvious geopolitical nature of the “error”, its criminological cognition is possible if you use appropriate scientific tools and methods based on the international sciences (geopolitics, geo-economics etc.).

This and similar to it situations indicate on the defeat of the active criminology or, at least, on its failure, inability to cover by the researching attention the international conflict and international crimes, which it forms. If this is not taken into account, a contradiction between the international essence of an utmost gravity of the international crime and the national level of criminal repression may appear. Researching the determination of terrorism, criminology is limited by elucidations of the direct causes and forming conditions of the criminal act. And this is not surprising. As using mainly methods based on the criminal law evaluations of strictly terrorist act, and also the factors and circumstances that have caused it, criminology gets some relevant results, which indicate only the direct secondary conditions and causes of terrorism: funding sources, contraband canals of weapon supply, communication with drug trafficking etc.

Criminological methodology from the criminal law without the involvement of possibilities of other international legal and adjacent to law sciences does not give a complete picture of the causality of the international terrorism crime. Based on such simplistic criminal legal assessments of terrorism causes, the international criminal law limits its jurisdiction with acts that are directly conditioned by these secondary causes, ignoring the main international causality of a socio-economic character and, therefore, the major acts of states and individuals, arising from this causality.

On the other hand, the global scale of determination affects the effectiveness of criminological methods concerning the international crimes, especially when it comes to identifying the causes of international crimes against international offense. In most cases, the cause of terrorism is a behavior that constitutes a violation of the general principles of international law (self-determination, territorial integrity, sovereign equality etc.). Rather common (abstract) nature of such offenses, especially in those cases, when they are not connected with the military intervention, blurs the legal basis for liability, takes out the legal qualification of act into the sphere of political debates.

Clearly, it is possible to deny by the fact that the question is in peremptory norms of international law – *jus cogens*. Besides it is also hard to deny here the legal certainty of an increased social danger as a basic feature of international crimes.

In the case of international crime a serious breach of an obligation *erga omnes* is obvious. The existence of such obligations is generally recognized, it is embodied in the decision of the International Court of Justice, handed down in the “Barcelona case” in 1970.

But in the international practice it often happens, that such “reason – offense” is as if fixed by the international law. In general a violation of spirit of such recognized principle of international law, its “ideology” usually does not contain the specific acts concerning the breach of rule. Such actions are easily camouflaged by political terms as a result of the unseemly politics, conducted by states, and removed from the area of application of international law.

In this case, the question appears, whether criminology can create within the framework of use of “traditional” methods and tools, some new opportunities of international legal qualification of international crimes, clarifying it through the criminalization of certain acts as the elements of body of a specific international crime. Indeed, following the traditional methods and criteria of crime evaluation (largely coming from the domestic criminal law), criminology logically defines the terrorism as a form of transnational criminality, which is manifested mainly in specific high-risk activities. Thus, in terrorism the explicit socially dangerous actions and the system of their organization, which is distinguished with the criminological regimens used in the field of transnational organized crime, are subjected to the criminalization. Meanwhile, the international community is a totally different social unit, than other one, based on the structure of the state, and the study of conflict within this entity should also have a methodology, which differs from the “domestic” one.

Misunderstanding and ignorance of these features lead to simplification, and even to the primitivism in the criminological science, that, finally, results the distortion of a criminal legal characteristic of

terrorism, aggression and other serious violations of international law. That is, an imperfect criminology in some way confuses the international criminal law, its normative orientation. As a result of such imperfection, additional international irritants, additional international conflict appear, as outside the international criminal law power and responsibility the major subjects of international crimes or their elements are still poorly studied, and in some cases, are absolutely not explored by the imperfect criminology.

Application of criminological criteria of national and even inter-state nature does not solve the problem of cognition in the field of international crime of mechanisms of criminality (obviously international).

To discover such criminogenity we can only resort to the criminological methods and tools, the nature of which is another – it is formed and expressed through the categories of global society as a social and economic integrity.

Hereby, the complexity is added by the fact, that the regularities (or at least the principles) of operation and development of this global community, at least in the scientific-theoretical plan, are unclear. Obviously it is proved by the confusion of many researchers before the face of the need to assess the global crisis of the world's system. However, the scientific searches for answers to the questions, which are posed before the society by the world's globalization, are lead by a set of disciplines, primarily of humanitarian and legal orientation. The crisis of the world order's system itself being a product of globalization, as it is accompanied by a burst of activity of the international criminality, contains the basis for the attention of criminology. Criminology can study fully the criminogenity of the certain elements of globalization, only having taken its key position in the complex of international sciences, as an organic component of the scientific theoretical system.

Accordingly, the possibilities of criminology as an element of such system (complex) will perceptibly increase due to the effect of correlative relations and mutual enrichment of cooperating sciences.

It means that criminology, studying the international criminality, especially in conditions of the world's globalization and the systematic crisis of the globalized economy, cannot be an international science in its self-content. Implementation of international content of criminology is expedient in the format of allocation of criminology into an independent direction – the international criminology. It does not violate the integrity of the science of criminology, as it retains its general methodological principles, goals and tasks. At the same time, it gives an opportunity, on the basis of allocation (due to its international specifics) of international criminality, of determination of its characteristics and differences from traditional criminality, to create purposeful subjected conditions for its cognition and criminological study. However, it would be mistaken to assume, that it is enough to update the scientific tools, to give them an international dimension, to define the task of global nature, in order that criminology may have a new international content and be ready to cover by its scientific and researching attention and by methodological possibilities the fundamental problems of international criminality.

Most likely, the deal is in allocation of understanding of its scientific and theoretical character, which is accompanied by the creation of the scientific elements of the criminology's system, which focuses, firstly, on the state and the certain social society, which is outlined by a governmental shell. Moreover, for the international criminology this dual substance should be interesting not as an object, but, mostly, as a subject of international criminality.

Secondly, the actual subject of study of international criminology should be a modern world-system as a social megaintegrity with its positioned liberal-capitalist model of world's order. The pivoted criminological formula determining the direction and the nature of the determinants' researches of the threateningly catastrophic condition of international criminality logically arises, such as: the global framework of the formation of world order's basis on the background of the western model of economics and the desire to organize the life in the world under the standards of the western democratic societies, and considers the search

of criminogenic factors of the global crime in the socio-economic mechanisms of the developed part of the modern world system and its interaction with other world and impact on it.

Consequently, in such criminology the attention should be not only and not so much focused on the countries of the “third world”, where the secondary international criminality is practically in the process of forming, but, primarily, on the developed countries and societies, that define the format and content of the modern world order, and, therefore, conditions and causes producing a modern international criminality. Since the last one acquires the features of a self-sustaining global regulatory mechanism, these causes and conditions must within the framework of international criminology get an estimation and vision of the presence (or absence) of the grounds for criminalization. And this, in its turn, gives a core for the creation of the common planetary interest in regulation of international criminological prevention of such catastrophic criminality.

Thirdly, as a separate subject of the study of international criminology we should consider the international mechanisms ensuring the implementation of international relations (primarily, between a group of economically developed countries and countries of the “third world”), which, despite not very encouraging results and conditions, are positioned in the international politics and international law as those which created to ensure peace, security, prosperity and social justice.

Therefore, the need for a specific tendency of researches of international criminology, and it is fourthly, in the center of which are the problems of international law criminalization of the actions of states and societies, especially in the field of global economy, which do not correspond (and often conflict) to the general principles of international law, and which only partially are emphasized in the international instruments of “soft” law. All this does not constitute the background for raising the issue of criminal responsibility and criminal repression concerning such states.

Fifthly, the international allocation (in its content) within the framework of criminology creates a problem of an ambiguous

interpretation of the same negative processes and events of international life and both criminogenic factors and elements of body of the international criminal offense. The fact is, that negative criminogenic factors of globalization are external, i.e., are the actual causes and conditions for national and even transnational criminality. For an international crime, in most cases they become its integral part and should be subjected to criminalization. In this regard, they can be attributed to the element of organization of the international crimes or international criminality.

For example, the formation and functioning on the international market the sector of quasi-economy, emphasizing a market of financial speculations, are determinant factors for transnational criminality, but in the framework of international crimes, for example, terrorism, such acts will be criminalized and “participate” in the formation of body of the international crime.

Sixthly, it is obvious, that the system of international criminology, the contours of the specific object of study of which is defined above, requires the necessity of its own specific methodology and scientific instruments. The scientific and methodological basis of such allocation is formed by relatively young sciences and scopes of sciences, such as: geo-economics, sociology of international relations, cultural studies, international conflictology, military science, international statistics etc.

The conditions of origin and formation of such sciences as independent ones, which are believed to be “international”, with their specific methodology and a separate subject of study, which an international society as a social integrity is (in accordance with the scope of interest of each science), indicate that the total product of these sciences, which will be supplied for the needs of criminology, defines the last one as an international science in its content and purpose.

Finally, we must remember, that the international content of criminological science presupposes its substantial politicization, exactly “geo-politicization”, as, according to the characteristics of its subject, method and the scientific instruments, it is claimed to study criminogenic factors of globalization and associated systematic crisis of the world order.

In this case it should be noted, that the name change actually adds not a lot to the content of the international tendency in the criminological science.

A general study of the legitimate behavior of states and other international actors and an ability to identify in it the essence, which is criminogenic, criminal or subjected to criminalization under the international law, also is an important activity of international criminology.

It is obvious, that the corresponding methodology and tools, called to promote such result, differ from traditional, which are a general characteristic of criminology. They are characterized by the criteria of global layouts and combinations and are based on the achievements of geoeconomics, geopolitics, international sociology, geostrategic and military science, conflictology, culture etc.

If we ignore some specific international crimes and appeal to the condition of knowledge and the certainty of international criminality as an international social phenomenon, it becomes obvious, that a legal point here, unfortunately, is “marking time” about the nature of the conceptual categories, which the representatives of different scientific schools in the doctrine tend to define mainly through the legal syllogisms, and almost do not address to the serious international criminological researches. First of all, it happens because the general scientific methods of criminology (a formal logic, analysis and synthesis, induction and deduction, analogy, modeling) are developed and tested under the requirements of the cognition of criminality, and the mechanisms of formation and action of which are formulated within states, and the fight against them is controlled by the national criminal jurisdictions. They are weakly adapted to the tasks of studying and legal regulation of the fight against the international criminality. Universal qualities of these methods of criminology, their suitability for the application to the processes and the environment, where the international criminality forms, are displayed in such a way, in which the determinants of domestic and international crime are the same or are common.

Consequently, the general scientific methodological core for the needs of criminology in the scope of international criminality must be reconsidered. In this case, the traditional methods of studying the genesis of criminality should be improved and adapted to the scales of international life, to an ability to cover by the scientific activity the determinants of criminality, which are originated in different niches of international relations.

The same concerns the specific instruments of the sociological cognition of criminality in the international legal sense and receiving socio-legal information, which is traditionally used by the modern criminology – questionnaires, interviews, observation and experiment.

In this regard, it is difficult to imagine a particular category of international criminals or suspected persons in the committing of international crimes, such as, for example, Wilhelm II, Hitler, Pol Pot, Saddam Hussein, Slobodan Milosevic. And it is equally difficult to imagine the use of such tools in the opposite direction with respect to more than four billion people suffering from hunger and on this basis resorted to various forms of protest and who “bless” their representatives to the armed opposition, including the terrorist fight, which is submitted for them as the most effective method.

Criminological assessments and conclusions here clearly should be linked to the criteria and methods of geo-political, geo-economic, international sociological and similar equally-scaled order.

At this time such estimations, unfortunately, are formed out of the system impact of criminology. They mainly deal with psycho leaders and members of the terrorist groups, the channels of financing and material support of terrorist acts, weapon delivery to terrorists, locations of training camps etc. In rare cases, it could be a search of the origins of militant Islam (which, incidentally, is not inherent to it) or signs of aggression, arising on the core of different cultural values.

All this results the international standards and international instruments of a minor nature which do not aim at the resolution of the problem, but rather detract from the development of the essential rules of

international law, aimed at the removing of criminal mechanisms on the global level.

For example, we may remember the International Convention for the Suppression of the Financing of Terrorism (1999). Criminological indexes underlying in the core of its adoption, only encourage to an opposition of the “financing terrorists and terrorist organizations”, based on the fact that “the number and seriousness of acts of international terrorism depend on the financing that terrorists may obtain” [10, p. 361, 362].

Outside the criminological study the issues are, the cognition of which could prompt a reassessment of the rules and provisions of the Convention, and their reorientation from the level of countering terrorist acts and their performers to the level of counteraction to terrorism as a large-scaled international crime. This study suggests, for example, the research of the social aspect of the phenomenon of international financing of terrorist groups’ activity in the broadest sense of this term, the disclosure of mechanisms of collateral or latent financing of terrorist activities, emanating essentially from the very object of terrorist attacks through the drug trading, production and supply of weapons, and also in accordance with the schemes inherent to the international quasi-economy and para-economy.

The results of such international criminological researches may serve as a confirmation of the validity of concept of a joint subject of body of the international crime of terrorism.

4.2.2. International criminal law and international criminology

The effectiveness of international criminal law is not sufficient. One of the main reasons of it is an insufficient guiding influence of criminology science. This problem should be investigated “from the inside”, that is, from the point of view of the estimation of condition (and effectiveness) of the studying process, elaborating of the international legal characteristics

and definition of the international criminality, its genesis, determinants and objectly-subjectual criteria.

As criminology, which operates in the international sphere, is associated primarily with the international criminal law, is oriented on it and is based on its substantive characteristics.

In this case, the object of interest is the studying and use in science and practice of such basic categories of international criminal law as the international crime, the international criminal responsibility of states as the main subjects of international law etc. It is important that the science of criminology takes a significant place in this process. Taking into account the grounding of the question of international criminology, we should, at first, realize how well-grounded and well-established are the main concepts and categories making up the content, subject matter and methods of a specific branch of international law – the international criminal law. Secondly, the need for the “international” allocation must be determined for solving these matters and determining the limits to of its specification in the criminological science. We must understand what features the science should possess to be applied in the international dimension. Thirdly, we must find and identify the factors of the reverse influence of the international law on the criminology, a specific international character of which would give the reason to say that, in tandem with the international criminal law in the framework of sciences of the international legal cycle, the appropriate international branch of criminology actually operates and must develop.

Strictly saying, exactly in such interdependence and intercorrelation the reality of components’ functioning of this symbiosis of the international criminal law and criminology – the international criminology – is seen.

First of all, it must be ascertained that, despite of the acceptance of the international criminal law as a consistent and creative scientific discipline and as a separate scope of international law, a complete clarity as to its subject matter, method and regulatory array is not made.

How can we deny, for example, the availability of grounds for doubts to a world-famous international lawyer J. Schwarzenberger, who came to

the conclusion that in its true sense the international criminal law does not exist, because this term itself contains a contradiction. This contradiction, providing for the availability of supranational authority that can apply the law with respect to all states, including those, which have the veto power in the UN Security Council, deprives the international community of the most essential condition, on which the criminal law depends [19, p. 63-96].

It is clear that it is not possible to bring clarity to such issue only by the science of international criminal law. In this case, there appears a need in the study of global and national tendencies, that can completely level the severity of the matter put by J. Schwarzenberger. On the one hand, it is the tendency to a centralized organization of the international life that in the international law is expressed in terms of the probability of its transformation into a law of the international community. Criminology should not ignore an emerging especially international feature of the legal system, which is primarily in the fact that in the hierarchy of the protected interests the central place is taken by the interests of the international community in general. The matter is not just in the amount of states, but about the certain socio-political entity. Being a special socio-political system, the international community has its own interests, which are not limited by a simple sum of interests of its generators. The protection of these interests is one of the main tasks of the community. That is why in the core of the concept of international crime, discussed by the UN International Law Commission, the idea of “protection of the fundamental interests of the international community” was put. The law of the international community can carry out this function, basing on the principle of shared responsibility. The establishment of the appropriate mechanisms for an embodiment of this principle should be based on the criminological studies of the international character. It was exactly as a result of the international criminological researches of the genesis of terrorism as an international criminal phenomenon, that the concept of a new scope of international law – the international anti-terrorist law was proposed, the core of which is formed by the joint entity of *corpus delicti*. The idea of a joint subject of body of a crime, the components of which are in the

confronting interaction, the most fully corresponds to the principle of shared responsibility as the basis for the development of international community law.

On the other hand, at the domestic level there is a counter-trend – the liberalization of process of the governmental control organization on the ground of the significant strengthening of a civil society role.

This tendency is combined with the growing influence of the international law on the domestic legal order. As a result, an interlinking of these tendencies together with the internationalization of life, the growing amount of the areas of legal regulation goes to a system of international law.

Only the science able to operate with the international scientific tools inherent only to it among the law sciences, may study the impact of these trends and their interactions on the condition, maintenance and development of international criminal law. These tools along with the legal and technical ones unite the categories of sociology of international relations, geo-economics, geopolitics, culture, military science etc., and are based on the general principles of philosophy. At the same time, it should not be distracted from “its” specific subject, which an international criminality forms. An international criminology can be such a science in accordance with logic and by definition.

An ambiguous approach to the integrity of international criminal law as a branch of international law and as a complex scientific discipline is observed among those professionals, who generally recognize its existence.

The Ukrainian international lawyer N.A. Zelinska, having examined the opinion of the leading researchers on the subject, concluded that “in the national and international legal systems there is “their own” international criminal law, which does not form a complex body of law, but clearly requires a comprehensive scientific research” [3, p.15].

The lawyer thinks that if to connect the concept of “criminal law” exceptionally with the protected criminal law relations, the “international criminal law” is a law about the “international punishment” and, therefore, only international criminal law *stricto sensu* can be named by this term. If

we consider the “international criminal law” as a law of “international crime”, in its broadest interpretation into it all international legal norms should be put, centered on the concept of “crimen” meaning a set of rules governing the interaction of national criminal legal relationships in the response to a crime and crime prevention [3, p.15].

That is, to determine the content of the international criminal law, its subject and limits, we should, at least, answer the question: whether the rules governing the financial and legal aspects of the interaction between the national criminal law systems are criminal law norms, whether it is really the criminal law?

Professor N.A. Zelinska herself, realizing the lack of a deep studying of the problem of international criminal law as a science of international crime and international cooperation in fighting this type of criminality, directly raises the question of “expanding the conceptual limits of criminology and criminal law doctrine beyond just national law approach” [3, p. 20].

We should realize here, that not only and not to such a big extent the crime went into the international niche, as its causality is forming there. In this case, its criminal consequences of international character are generally presented to the most underdeveloped areas of the so-called “third world”.

That is why, it is beyond the competence of any related sciences or sciences of criminal-legal cycle to find out independently (each separately) the full extent of international mechanisms of the establishment of different types and forms of criminality and to determine the ways of anti-criminal response to them.

For example, a well-known Russian international economist A.I. Neklessa, proving in his works [9] the inferiority of the global economy and confirming the idea of “anti-development”, comprehensively and profoundly reveals the rascally phenomenon of financial civilization, international mechanisms of virtual economy, and also, based on the criminal business, para-economy etc. The same can be said about I. Vallerstein’s works concerning the misdevelopment of the world system, about the works of V.L. Inozemtsev, I. Beck, E. Todd concerning the

international social and economic spheres, about the works of A.S. Panarin, F. Zakaria, A. Etzioni concerning the international socio-political issues, about the works of A.I. Utkin, A.G. Dugin, K.S. Hajjiyev, Y.V. Tihonravova concerning the scope of geopolitics, about the works of K. Clausewitz, K. Schmitt, V.V. Serebryanikov concerning the global military matters etc. However, we cannot term it criminology. This voluminous and qualified in the relevant scientific fields material requires an evaluation of its criminogenic potential and, primarily, the legal qualification of the illegitimate factors, the identification of prospects of its criminalization with the purpose of establishment of objective grounds for the application of criminal repression by the international community. But for this, the criminology itself should work according to the international criteria and operate with the international categories.

Consequently, only criminology in understanding of its international content is able to unite, coordinate and implement the functions and tasks in the field of international criminal legal policy in a globalizing world.

After all, from the other side, criminology itself is not to able to implement a deep geopolitical and socio-economic analysis of globalization, to reveal the amazing in its adaptability to the international social life mechanisms of inequitable division of resources, the access to technologies and goods of civilization. Especially, if taking into consideration, that criminology's scientific instruments were formed mainly within and according to the criteria of the national legal systems.

The ability of the international community to organize criminal repressions as to the international offenders by matching wills of its members may also serve as a basis for the removal of doubts about the reality of the idea of international criminal law.

With the process of internationalization of life on the planet, increasing of intensity and meaningfulness of international relations and, therefore, expanding of the scope of international legal regulation, there appears a need not only to form new norms ensuring by the regulatory impact of the new areas of such relations, but also to ground these norms of international law scientifically and theoretically. Especially it is noticeable

for the field of international criminal law, where before the creation of norms there must be performed either a reasonable qualification of completely new compositions of offences, or the revision of qualified signs of the well-known violations of international law, first of all, of the “actual” international crimes, the recession of which cannot be obtained. Moreover, there can be seen the expanding and even in some cases the escalation of these crimes.

This becomes possible in most cases due to the obvious gap between the rapid (though not entirely favorable for everybody and satisfying everyone) development of international economic and social relations and a certain stagnation of the legal postulates that were formed mainly on the basis of national necessity, within the terms of the legal regulation of the European and Christian model of life, and, partly, of international relations.

That is, on the one hand, it becomes obvious that the problem of escalation of certain types of international criminality (terrorism, transnational organized crime, aggression, drug trafficking etc.) is in the field produced by the defects of the global economy and international social organization. On the other hand, it is also evident, that the international criminal law is not able to master the tendency of the effective establishment of norms of legal regulation, “digging” in the problem, resorting to traditional legal techniques and figuring out, in most cases, the compliance and semantics of definitions, which once were criticized by E. Ferri. The scientist wrote: “Our eclectics reduce the process to a few words about the criminal and about the natural factors of criminality in the introductory chapter, in the boring and existing only for appearances' sake branch of “auxiliary sciences” of the criminal law, and then they transform into the familiar old legal syllogisms, without thinking even to look in these auxiliary sciences for some factors having to serve as a basis for general inductions” [15, p. 22].

In the law-making process the international criminal law is focused primarily on the criminal act, criminal characteristics of which were worked out in the criteria of public relations of the national public education. Interstate relations in the context of globalization have not only

changed the scope of these acts and their consequences. New and possible only in the international (inter-state) relations criminal mechanisms are in the process of establishing, and it is impossible to know the causality of them and to criminalize their separate elements in the traditional way.

It is possible to fully investigate the causality of the modern international criminality creating global threats, which is the task of science of criminology, resorting to the fundamental researches in the field of geoeconomics, geopolitics, sociology, international relations and other “global” sciences that are adjacent to law. These sciences, unfortunately, are associated with criminology only partly in its traditional sense: more precisely, not the sciences, but the possibility of the criminal law transformation of certain results of these sciences. For this, the organizational conditions are seen within the international criminology.

4.2.3. Criminogenity originating from a state as an object of study of international criminology

In the modern international criminal law a number of issues and concepts is being actively developed which clearly require the international criminological research. First of all, it is a problem of the state’s international crime and the international criminal responsibility of state.

The concept of state’s “international crime” deals with the realizing by the humanity of the common danger of war and is associated primarily with the unacceptability of this dangerous method of social action and its moral condemnation.

The emergence and escalation of the modern system of terrorism as an extremely dangerous, asymmetric (and therefore accessible to everyone) type of a violent conflict has significantly contributed to the actualization of this concept.

The development of the concept of international crime from the very beginning was carried out in two ways: with regard to the states and individuals. Such scholars as Bustamante and Donnedieu de Vabres thought that only a state may be the subject of international criminal

responsibility, and individuals can be criminally responsible only under national law. Another group of scholars including Pella, Saldana, Levy believed that both the state and individuals may be the subjects of criminal responsibility under the international law [13, p. 352-382].

Later a position in international law was also recognized (A.N. Trainin, G.I. Tunkin, D.B. Levin etc.) according to which the criminal responsibility of state was categorically denied in general, because “in the area of substantive law likely as in the sphere of process the attempts to consider the criminal sanctions applied to a state appear in deep disagreement with the basic principles of criminal justice” [12, p. 200].

Both in the doctrine and in law-making practice either of these positions or their components is proved, as a rule, with the arguments of legal or law-making logic, leaving the possibilities of the adjacent basic sciences off-side. Therefore, it is too early to speak about the specific results, because none of the positions has received the convincing advantage in this important issue.

Let's refer to the doctrine. As it was already mentioned, there are points of view concerning the concept of “a crime of the state”, according to one of which this concept is negated and, therefore, the legitimacy of the concept of the “international crime” of the state is denied. Another point of view is in the definition of the concept and, therefore, of the “international crime” of state. The position is separately defined, which denies the concept of criminal responsibility of state, but at the same time considers as acceptable using of the term “the international crime of the state” for the determining of the most serious offenses.

It is clear, that each position has its supporters and has the right to exist, at least as an academic version. However, it is necessary to note that the proving of this and many other important issues of international criminal law is based, generally, on the analysis of the derivative legal concepts and terms, their etymological and semantic evaluation. But in most cases beyond the focus of criminology the depth and nature of the phenomena remain, which lie in the core of criminality being largely

produced by states, and which require the applying of both legal and international sciences related to law.

For example, the contradiction of the last position on the concept of “state crime” is grounded as follows. Giving the state offense a name an international crime, the supporters of this position categorically deny the “criminalization” of state’s responsibility. However, the crime (crimen – in Lat.) is a “criminal” offense. The term contains the criminalization of concept which it defines. It means, that denying the criminal responsibility of states, we should also deny the term «crimen». But it does not happen. Next, it is proved that in contrary to the logic (which logic? – V.A.), this situation can be explained by the fact that from the political and moral points of view the recognition of the most serious international offenses as a crime is blameless [3, p. 84].

From our point of view, the logic is not enough to be denied or confirmed a priori, it must be identified. Otherwise, the terminology should be replaced, because the awareness about the purity of terms appears to be more important than the logic of undeniable danger of criminality originating from the state.

Therefore, if we talk about the determination of the mechanism of the criminal behavior of state (exactly how the problem is raised), then using only legal-dogmatic methods of study (as it is, indeed, in many other cases), we won’t get the convincing results. The cognition of the political (and, consequently, social, economic, cultural) context of international relations and of the behavior of individual states in the modern world-system (but not just in the legal-technical terminology) could produce the system of arguments about the possible mechanism of the criminal behavior of state. Exactly this is one of the main tasks of criminology, the mission of which is to reveal the content of criminality occurring in a variety of international relations.

However, a traditional criminology, which originates from the national criminal law and focuses on the psychology and sociology of individuals or particular groups in the national or transnational dimension, won’t force it. Global world, in which a state as the main subject of law

appears in a new way: the substance and the operating actor determining the content of the world order (but not just a tool of geopolitical players), in cooperation with other actors of international relations produces such an intensive criminality in its extremely dangerous types that criminology, providing this area, should get a new global content. The center of its methodology should be the genesis of state behavior as a form of existence and relationship of social groups, stratas and civilizations. As the object and subject, consequently, it should have the international community as a global integral social organism and the content aspect of states' coexistence, and it is this community that gives qualities to the specified global social organism. The scientific mastering of criminal capacity of these qualities and also of international criminality emerging in such conditions is possible within the science of criminology that is such in its purpose – to study criminality, its causality and possibilities of prevention. In its content and methodology it is another science, criminological conclusions of which are based on the penetration into the geo-economic, geo-social, geo-cultural and other global layers of interstate relations.

This another criminology – international in its content – was in general developed by a well-known modern criminologist V.V. Lunev. In one of his last works¹⁰ he is talking about the essential specific contribution of globalization in some criminologically relevant aspects of international life reinforcing the current international criminality in the cumulative way: 1) the high level and the peculiar structure of criminality in the world and individual countries; 2) a set of causes and conditions of criminality and its various types; 3) the peculiarities of criminals' individuality; 4) the appearance of new forms and types of a social dangerous activity; 5) the expansion of specific areas of crime in the criminal legislature; 6) transnationalization of criminality, 7) forced expansion of international cooperation in fighting transnational criminality; 8) the content and organization of the prevention and suppression of criminality [7, p. 22].

¹⁰ See: Лунев, В. В. Эпоха глобализации и преступность / В. В. Лунев. – М. : Норма, 2007. – 272 с.

But the most important is that in this case the author makes a conclusion: “All aspects of criminology in the process of further globalization may experience and are experiencing the noticeable and significant changes” [7, p. 22]. Professor V.V. Luneev doesn't explicitly raise the question of the branching of international criminology, but the content of his approach to the problem of growth of criminality's international element indicates it.

In particular, he accentuates that these changes are of a *secondary nature* as they are determined by the *primary* political, economic, social and other “*horizontal*” components of the process of globalization [7, p. 22].

The examination of many fundamental studies on globalization, which are considered from the points of view of the adjacent to law sciences, these “horizontal” components must be implemented within the framework of criminology of another level than the one that explores the secondary factors directly forming the transnational criminality. Or more precisely, such factors which are directly related to the criminal activities of a transnational nature.

The difference of such criminology is primarily in the coordination content of its main method. It is created to give a criminological orientation and in the future a criminological assessment of the fundamental works of geopolitics, political science, geo-economics and sociology of international relations, culture, conflictology and other sciences.

Actually, the question is in the scientific separation of actual tendency in the form of international criminology. In contrast to the approaches applied in “general” criminology the focus here is the state (group of states) and criminality of its behavior.

Thus, this criminality should be considered not as a consequence of the immanent state's activity, that is by assessing the problems associated with the imperfection of structural and functional elements of its internal structure. It goes, first of all, about the transcendent aspect of the behavior of state (states) as a player in international relations and as a subject of international law.

Taking into consideration the coordination nature of international law (in contrast to the subordinate domestic law), the behavior of state capable to produce criminality is considered from the standpoint of assessing the compliance (or non-compliance) of voluntary taken commitments (criminal) or outside of such obligations (criminogenity).

Due to the differences of international law as a special system of law, the state may refuse from the accepted obligations or refuse to accept them at all (by correspondingly terminating the agreement and non-alignment). That is a state can decriminalize its behavior in advance or while participating in the international law norm. As an example we may take the shown by V.V. Luneev attempt of the USA to weaken the position of the International Criminal Court and to reach the unspreading of its jurisdiction over the USA and its citizens, especially high officials.

After the Rome Statute of the Court had been adopted, the Deputy Secretary of State John Bolton who at that time was the central figure in the American administration wrote on this issue: "Our main concern should be the president, cabinet members forming the National Security Council, and other civilian and military leaders, who are responsible for our defense and foreign policy. They are the potential targets of the uncontrollable prosecutor approved in Rome" [6, p. 95].

In such cases, a specific area of international criminology is to determine the behavior of criminogenity of state beyond its participation in the international norm (treaty), its assessment of such behavior not only as the equivalent to the basic principles of international law *jus cogens*, but taking into account the international legal customs, traditions and international standards of morality.

Thus, with a help of the primary strictly international components the criminology is able to determine the criminality of states` behavior and of globalization in general. This is the first thing. Secondly, the "internationality" of criminology involves the determining of the content of the (international) criminogenity itself. Thirdly, it is clear that a state may decriminalize certain criminogenic factors of the international character. Along with this the primary "horizontal" components of international

criminality cannot be eliminated. This needs a lot of time and a high level of interstate consolidation. Such globalized conditions of international practice suppose differences in criminology approaches to the defining of the criteria of their criminogenity. That is they form the international specificity of criminology, they compose its subject.

Since a state today is the main international actor and subject of international law, the possibility of responsibility realization under international law certainly depends on its behavior [1, p. 34].

International criminology as a special and more precise science, which differs from others with its content and scope, should study this particular by its content and scope behavior.

International criminology with its global scientific instruments of the global character has the mission to "lead" a state out the shadow of the causality of international crime and give thereby the objectivity to the international criminal law. A famous lawyer Sh. Bassioni once told about a striking discrepancy, when "society and state agencies quickly and strongly condemning the terrorist acts committed by individuals ... do not react in the proper way, when the same or even worse things were committed by political structure" [1, p. 51].

4.2.4. The problems of the criminal responsibility of a state

Where the state-determinant approach at least was born and a state in the system of global relationships was recognized as a substance being capable to produce crime (and this crime is, of course, special), the perspective of the innovative vision of international crime mechanisms and of the ways of effective fighting it is created through the giving the new content to the institute of government responsibility, including criminal responsibility.

In this regard the attention should be paid to the scientific theoretical developments of the outstanding Romanian international lawyer V. Pella with his major work "The Collective Crime of States and the Criminal Law

of the Future" (1925), in which he outlines the concept of criminal responsibility of states.

He links the effectiveness of international law and the ability to prevent international crimes with the recognition of the institute of state criminal responsibility: "The fact that not only the leaders, but also a state as a whole may be the subject of applying of the criminal actions will help to develop counteraction measures for criminals who head a state" [1, p. 46].

It is interesting that the concept of criminal liability of V. Pella is based on scientific and theoretical projects, which, according to the above estimates, can be referred to the field of international criminology. The scientist based on scientific data of the psychology of groups and sociology of that period of time with the original principle of the existence of the group will, which is qualitatively different from the will of the individuals making up the group.

V. Pella considered a special nature of legal capacity of states. First of all, he saw the reason for this in fact that states, in spite of legal entities established and operating in accordance with the will of a man (artificial formation), represent a nation and the existence of nation does not depend on the will of an individual.

According to V. Pella a state embodies the group will of a nation. And if such will is criminal, then the responsibility lies on a state and, consequently, on its nation.

Principles of criminal policy assume measures against a group of elements having contributed to the commission of crime, so a state should also be the object of such measures.

Violent international conflicts (terrorism, aggression, etc.) can not be eliminated only through signing treaties, the UNO actions and actions of other international organizations and institutions. International criminal law, international law and other anti-terrorism related fields of international law should also undertake monitoring function of maintaining peace and security.

Like domestic law is a factor permitting society to control the aggressive traits of the individual, the international criminal law can be means of deterioration of imperialism and other selfish motivation of individual states [1, p. 47].

However, the effectiveness of international criminal law should be ensured by international criminological research to find answers to complex questions raised by international life.

It is known that one of the vulnerabilities of the theory of criminal liability of V. Pella is the fact that the effectiveness of criminal defense of peace he associated primarily with powerful nations, as in the framework of the international society they possess an essential element of criminal law – the force [1, p. 47].

In spite of the fact that such an approach may be real due to the decisive role of the great states, it is theoretically and legally vulnerable and unrealistic because the system value itself is quite questionable and originally based on principle excluding the goal, that is providing a fair solution in independent court.

However, international criminological research in the sphere of fighting terrorism and other international crimes, especially the results of this research, may revive the theory of V. Pella, give it new meaning and new relevance in the context of globalization.

First of all, it is connected with dominant influence of the force on the content of contemporary international life. This factor is preserved, and because of its growing latency it has even increased. At the same time, the structure of power pressure and its content are in the process of changing. Irregular nature of the modern global proneness to conflict is produced by asymmetric means of fight. Such means are used more often by protest groups, mostly terrorism-related. Such irregular nature significantly eliminates military-economic potential and makes the ability of parties in this global conflict comparable.

Globalization with it eloquent and mostly negative results polarizes the world extensively and produces a systemic crisis not much of the liberal capitalist world system. Behind that we may see easily the contours of the

opposed parties in this global conflict¹¹, which are, on the one hand, the group of developed countries of the West, and the other include the regions and countries belonging mostly to the "third world".

To that fact the uncontrolled activation of nuclear weapons development and other weapons of mass destruction by the so-called "states-outsiders" and terrorist groups and networks holding the sufficient financial capital should be added. Leading nuclear states actually have lost their monopoly of control over the production and proliferation of nuclear weapons. So the factor of power as an essential element of international criminal law gains now a different content. It is in the process of losing its main feature – the relation with a group of industrialized countries. This entails a qualitative change in the status of "international legislator" as in relationships which determine it the influence of the second and third "tier" states would increase. Moreover, the danger lies in the fact that the leading positions in the world can be occupied by the territory of political anarchy, slipping into an economic collapse. One of the most authoritative experts in the development theory Osvaldo de Rivero aptly called it "uncontrolled chaotic societies" [18, p. 147].

In the political and economic spheres of international relations may be felt the signs of leveling the power superiority of economically developed countries. The meetings of the G8 show active dynamics. And their agenda concerns the problems of poverty and social justice, also in the international sense. The gradual transformation of the format of the World Summits including a growing number of states ("twenty" and even "thirty" in 2009) also points on this.

Thus, there is every reason to believe that from political decisions this trend will go in the area of international criminal law, and will contribute to the developments of international criminology, in particular those relating to the issue of criminal liability under the mechanism of international legal regulation against terrorism.

¹¹ See: Антипенко, В. Ф. Теории мирового развития и антитеррористическое право. Логика сопрягаемости : монография / В. Ф. Антипенко. – К., 2007. – С. 107-111 (Глобальный террористический конфликт).

This anti-terrorism mechanism is designed and formulated, again, due to the unconventional international criminological analysis that produced a new conflictological vision of terrorism and thus made it possible to formulate the international legal qualification characteristics of the content of international crime of terrorism¹².

In general, the conclusions of the international criminological research of terrorism as criminal under international law social phenomenon are so innovative that there is a good reason to talk about the branching of international criminology of terrorism as a separate branch of international criminology.

If to return to the possibility of updating of the theory of criminal liability by V. Pella using the results of modern international criminological research of the most dangerous international crimes the attention should also be paid to the following. Talking of the group will of a certain state that caused the international crime (war), V. Pella insisted that the parliamentary procedure of approval of the acts of war eliminates the possibility to blame guilty only a small group of politicians.

The powerful democratic processes of nowadays (this is how many western states are positioning themselves) confirm the validity of the theoretical concept of V. Pella and his associates. Parliamentary and other indicators of democracy, especially in the West, has reached such heights that gives them reason to be proud of it, and along with it to specify a different civilizational dimension of Western democracy development. The powerful civil society and a high degree of parliamentary excellence as characteristic features of Western countries turn a system of political decisions, especially crucial, taken by all the people of the state into reality.

Here there are reasons to talk about the criminal responsibility of state with foresight of additional burden to the nation of such a state, especially taking into account the possible political and material benefits, which was

¹² See: Антипенко, В. Ф. Борьба с современным терроризмом. Международно-правовые подходы / В. Ф. Антипенко. – К., 2002. – 721 с.; Антипенко, В. Ф. Теории мирового развития и антитеррористическое право. Логика сопрягаемости : монография / В. Ф. Антипенко. – К., 2007. – 450 с.

assumed to all society as a result of criminal solutions under international law. Moreover, if such benefit was realized.

Similarly, it would be quite possible to qualify the situation with the approval of the American Congress, which means the approval of every legally able citizen, of invading the American forces and their allies in Iraq, which is reasonably estimated by experts as an aggression. Although the economic component of the invasion is definitely kept in silence, it is obvious that every American has his share of the oil making in Iraq. Therefore, we can assume that democracy development promotes opportunities of international law regarding state responsibility for serious violations of international norms.

At the same time the legal procedure of criminal responsibility in states with totalitarian or authoritarian control system is not so effective. In those countries the international justice may confine itself with the criminal responsibility of the dictator and his supporters.

The formation of deep international criminological base gives us an opportunity to see that current international law often "act" exactly in opposite way. There is no doubt that there will be no international criminal responsibility for any state and for any leader (well, President Bush is not to be tried in the International Criminal Court, isn't he?!) for the aggression in Iraq like nobody was responsible for the bombing of Yugoslavia (1999) and for other aggressive actions of the USA and satellites.

At the same time various embargoes, economic blockade and other sanctions concerning the so-called nations-outsiders (Cuba, North Korea, Iraq, Iran, Syria, Libya, etc.) have become an everyday practice. But such sanctions affect the common people, women, children and elderly people, but not leaders and dictators of these countries.

Solving the problem of the effectiveness of criminology for international crime, it is impossible to ignore and do not agree with the well-known international lawyers I.P. Blishchenko and I.V. Fisenko. They say that the principles of non-criminal policy provide for taking measures against all the elements that contributed to the commission of crime, so that is why a state should be the subject to such measures [1, p. 47].

In the system of modern world a state represents first of all the interests of the ruling class. On practice the will of the state even in democratic countries is reduced to the will of the ruling elite [1, p. 57].

Therefore, the mechanism itself of criminal responsibility of state under international law and its relevance to criminal responsibility of individuals, and more specifically, the role and place in it of the responsibility of individuals, should have different content than the one put in it now.

The interests of big business are major among a group of internal factors influencing the crime committed by state. These factors also largely determine the behavior of state in international relations. It should be noted that the main arguments against the concept of criminal responsibility of state are based around the thesis that in the case of recognition of criminal responsibility "the hardness of criminal consequences falls not on the criminals but on all people" [1, p. 51]. At the same time, the status of a subject of international law is not given to the people.

Hence, the responsibility of individuals in the complex of the responsibility of states should not be associated only with criminal liability under international law of the officials representing the interests of state, but also with the criminal liability of persons the priority of whose interests a state embodies.

Officials representing a state and realising its will which embodied the international crime, in fact, express a criminal will and interests of the ruling class, the "elite" of society. And here, beyond the attention of the "unarmed" internationally criminology the important criminal situation appears. Understanding of it is the key to solving of the problem of major determinants of contemporary international crime and of the escalating of crime on the territories of the "third world", in fact, abandoned by the international community.

When we speak about the ruling class, it is not about the real elite of Aristotle, which should be (and used to be) the pride and conscience of every nation. The capitalism with its deformed development has created a hard polarized, competitive environment, in which the elite participate in

deciding any questions following solely selfish motives. Usually they do this only when it directly affects them.

That is, it goes about, in fact, the dominant class, that has created a fraudulent system of world economy and put it into a deep permanent crisis. A well-known contemporary American sociologist Fareed Zakaria pays attention to this international by its nature factor. Stating the rebirth of democracy in developed countries, he shows the substitution of the elites. “The aristocratic liberal democracy” gives way to the “people's democracy” which is often only called a democracy. Debunking the very old idea of elitism Fareed Zakaria admits: “We have created a policy pursued by the shady (illegitimate – *V.A.*) elite. They are responsible to nobody, they are not sensitive to others' needs and often they are not concerned with the public interests at all” [2, p. 215]. The instability of such elite creates the desire in their representatives to extract the maximum material benefits from their position. Fareed Zakaria quotes the words of the famous American lawyer M. Lewis: “Law has given the way to two major American instincts - democratization and commercialization (which often are the same things)” [2, p. 247]. Unfortunately, these elements of the western style of behavior are widely popular among the countries of the world, and this fact creates an international crime-breeding, which is not covered by criminology.

Shadow elites practice, spread and develop (primarily through TNCs' opportunities) worldwide the shadow, that is unlawful, illegal, economic schemes. They are accompanied by an escalation of criminal business. All this, in a broad sense, primary aggression, ignoring the principles and norms of international law regarding sovereign equality and self-determination, the right to development, etc., creates a secondary (response) aggression as a reaction of deceived peoples. This reaction is realised through the terrorism, piracy and other international crimes, and, finally, through a large involvement of population of poor regions in various kinds of transnational criminality.

In such circumstances the fact of the expression of interest of shady illegitimate individuals and groups is criminal for a state. Secondly, the

committing of acts of realizing of such interest is criminal, because it is a violation of international law and has harmful consequences to the international community and the international world.

After examining this problem through involving a wide range of options related to law, criminology may clearly establish the phenomenon of responsibility of state under international law, which is shown in the above mentioned dual responsibility of individuals and in the responsibilities of state itself. This phenomenon of double liability of individuals by the nature of relationship by its components resembles a “tandem” of responsibility of officials giving criminal orders and individuals as the executors of such orders, which was formed in the institute of war crimes in international criminal law.

Is a state responsible in such a scheme? Certainly, it is. However, the implementation of such responsibility should be felt through the laying of the main burden on the ruling class of state. In other words, the responsibility for this should include the impairment of the economic, political and other interests of the ruling elite of state and the ruling class, which it (actually) introduces.

An important prerequisite for the implementation of such a mechanism is the fact that such mechanism concerns mostly highly developed countries, because the force as the most important element of criminal law is concentrated in these states.

The real threat of severe punishment is projected on a particular interest, the implementation of which involves a criminal behavior of state. The well-known scientist in international law Donnedieu de Vabres talked about this. Concerning on the particular interest of the specific social environment and not on the gravely objectified “personality” of state, is a condition of the realization of criminal responsibility of state.

The complex tasks of the criminalizing process of behavior of individuals which are members of the ruling class and the oligarchs suggest qualified research of activities of TNCs, the mechanisms of their profits and excess profits, internal and external political and economic schemes lobbying, etc.

It is clear, that all this does not exclude sanctions against state as it is. V. Pella, for example, offers the following criminal sanctions against states: diplomatic (warning, the terminating of diplomatic and consular relations), legal (sequestration of the property of citizens of state), economic (the blockade, the embargo), and other (reprimand, fine, deprivation of the right of representation an international organization for some time, the deprivation of the mandate to manage the trust territory, the total or partial occupation of the territory of state, loss of independence) [1, p. 48].

The creating of such construction of criminal responsibility of states by the criminology is quite well differentiated with the idea of complete reconstruction or optimization of the world-system as a strategic perspective of realization of the international criminological research. The modern methods of world economy appear, in fact, in the area of international criminality. Their potential criminality does not allow the world system to function in the current format and content and force a restructuring of domestic and foreign policies of states and the international community as a whole.

Specification of the responsibility towards interested individuals will let to avoid the application of the principle of collective responsibility (which is originally foreign to criminal law) as part of the criminal responsibility of states and, as far as it is possible, “to avoid physical suffering of the innocent along with the guilty” [1, p. 50].

However, criminology can not ignore such special international situation, when the question of responsibility for the crimes of a whole nation is raised. As an example the apartheid in South Africa may be taken, because both the government and the nation participated in it. Everyone in the country knew how the system of apartheid functions, and everyone who voted for a political party advocating the apartheid, supported the system.

It is obvious that the problem exists here. We should recall that criminology does not involve the people (as a social value) as a subject of science or its component.

Studying the origins and mechanisms of such crimes and the possibility of qualifying in them of the subjectivity of people, criminology

should clarify and maybe also recommend the specific measures and mechanisms for its implementation with respect to people, the difference between the responsibility of people and responsibility of individuals, their associations, specialties of collective intent formation to commit the crime, the peculiarities of behavioral manifestations of individuals within large social groups, etc. This requires the usage of possibilities of sociology and other sciences in their fundamental application.

It is well known, for example, that the theory of criminal responsibility of states of V. Pella is based on the data of team psychology of that time with the original principle of the will of a group that differs from the will of the individuals making up the group.

There are reasons to believe that because of methodological inapproachability we don't know clearly the number of issues related to the criminal responsibility of states: the extremely coercive nature of such a liability, which virtually eliminates the possibility of a criminal state approval for its implementation; the decision-making procedure in respect to such a state and the authority empowered to make such decisions; the adoption of the International Criminal Code, which according to the traditional doctrine of criminal law is the only source of determining of criminal responsibility. The evidence of inconsistency with respect to these and other issues is the tendency to criminalize some of the provisions of international treaties and attempt to evaluate them exceptionally as criminal sanctions, which are political, diplomatic or property by their nature.

It is obvious that the concept of criminal responsibility of state requires a research of a different quality. Being dependent from the traditional stereotypes of criminology such studies in the field of "global" international crime hard to perceive as actually criminological. They are related to the problems of economics, politics, history, culture, market conditions, the mechanisms operating in the global financial market, etc. For example, the American lawyers who studied the question of responsibility of the German people after World War II consider such responsibility as an ascertainment of their fault in result of historical studies [17, p. 72]. In their opinion, basing on the development of the German

political and philosophical thought, such a fault really lies on the German people. Cruelty and treachery became the national characteristics and the German people deserve punishment [16, p. 178-263].

Being critical to that point of view, it should be noticed that this fault has an objective basis. However, the important thing for this research is the fact that the approach shows the great, or at least, specific content of international criminology. Criminology should cover the most diverse aspects of world development, interstate and international relations.

In general, as it was already mentioned, the idea of the doctrine of criminal responsibility of states finds some support (V. Pella, Donnedieu de Vabres, Bustamante, Mannheim, F. Malekyan, I.P. Blishchenko, N.N. Polyansky, etc.). UNO International Law Commission also does not exclude the possibility of its implementation in the future.

However, the main obstacle of its development and possible feasibility is the fact that the argumentation basis is built within the criteria of national criminal law with attempts of artificial transfer within the scope of a different system of law – international law. A well-known expert in the sphere of international crime A.N. Trainin considers that the concept of criminal responsibility of states under international law was developed mostly by criminologists. They preferred to transfer the categories of domestic law in the international law, rather than experts in international law, among which the concept has a little support [12, p. 298].

The eminent scientist in the sphere of international law G.I. Tunkin believes that the main drawback of the concept of criminal responsibility of states is the idea of unity of the ways of international and national law. According to that concept "the development of law is a unique process in which national law and international law are only staying at different levels" [14, p. 451].

All above mentioned facts mean that the ability of criminology to clarify the problem of criminal responsibility of state is not used properly. In spite of the result (which can be both positive and negative) one can state that criminological science objectively remains outside the real attempts and abilities to achieve it. Criminology is not able to approach to

the problems associated with violations of "global law" being armed with the methodology and scientific instruments based on the interests and goals of national criminal law. Meanwhile, the necessity of updating the scientific methods is caused by another subject of science, which in contrast to the individual offender is a state criminal. The formal changing of one subject with another does not bring any success. In other words, criminology must solve a complex problem: to determine a state as the subject that is a part of its science. That means taking into account its characteristics as a social and political body which is identified with the concepts of guilt and guiltiness; also determining of the mechanism of changing by a state its sovereignty as a result of commitment international crime, etc., in the circumstances of absence of a supranational mechanism, which could apply punitive sanctions.

These and similar ideas point to one more difference of international criminology, namely, its high politicization and global dimension of the material being comprehend.

This should not concern professionals. On the contrary, this is an additional argument in favor of setting the international criminology as an independent subject of socio-legal science of criminology.

In the regulation of international relations the international politics and international law formed a symbiotic terminology as "political and legal solutions", "political and legal means", "political and legal measures", etc.

Therefore, one should emphasize "policy" and "geopolicy" of international criminology, which covers with its methodology both the content of the political science, geopolitics, and other sciences with the political context or which are politicized in a certain way, and just enjoy their results.

Thus, it is clear that as a result of the absence of international criminological specialization when international criminology should be perceived as an adequate method for studying criminogenic factors and processes updated in international life, beyond the attention of criminological science (and consequently of international law) there is (or

tracked through the distorted assessment of their essence) a number of determinants of international conflict. That leads to increasing of threats to international peace and security.

In particular, basing on the above mentioned material, it is clear that the concept of international criminality of state develops in a very dangerous direction. That means that criminogenic factors of this sphere of international law are usually formed around the states of the "third world".

However, there are more reasons to diagnosticate the stigmatization and primary production of international criminality in the area of domination of economically developed countries of the West according to the direct or indirect assessment of a number of social scientists, economists and lawyers (V.L. Inozemtsev, V.V. Luneev, A.S. Panarin, A. Etzioni, E. Todd, W. Beck, N. Chomsky, J. Stiglitz, A.I. Neklessa, F. Zakaria, etc.).

We mentioned many times that criminology leaves beyond its scientific attention the determining influence of the western countries values and model of living on the maintenance of international political and economic relations and of the overall arrangement of the world, which contains by its nature the background of criminality and increasingly generates it (i.e. international criminality).

Similarly, the conflictogenity in the international space, which is more and more caused by the crisis of democracy, that is the base of state and political structure of society, failed to become the subject of criminological research. A number of sociologists, economists and political scientists, however, accentuate the prerequisites for this problem. In particular, Fareed Zakaria argues that democracy doesn't embody the absolute good, and the development of democracy does not necessarily lead to greater freedoms [2, p. 172]. It cannot be forced on anyone on principle and is not a means to achieve some noble interests [2, p. 118]. The Aristotle's postulate that an infinite democratization of democracy leads to ochlocracy and as a result to tyranny became more and more confirmed. Expanding the human economic conditions and enabling him to influence the social processes, the unlimited democracy make human idea of moral norms and principles of

other societies primitive. Being a form of power of the people, the democracy is also a form of struggle for power. And in this struggle people believing that the aim justifies the means of reaching this aim play an increasingly influential role. Therefore, both the nation-state society and the international community move significantly away from the principle of meritocratic elite formation, and democracy more and more becomes an end in itself, destroying the liberal constitutionalism of civil society [4, p. XIV].

But still due to the development of the liberal-democratic system and a powerful civil society any external and internal solutions in such a democratic socio-economic formation maximally display the views and aspirations of society as a whole and each its member in particular. Hence, the prospects for the formation of an interconnected international legal mechanism of responsibility and guilt of state are not so illusory.

The fundamental international criminological research of these issues could put the end to the secondary nature of international criminal law, which focuses its potential on secondary criminal manifestations which have the investigative nature (arms smuggling, drug addiction, human and human organs trafficking, piracy, sexual offenses, etc.) leaving untouched the real international criminal zone of global capital. Undergoing a deep crisis, the global capital as a basis of the world-system produces international crime and international terrorist conflicts, surprisingly transferring their determinancy to the problems of the "third world", which it, in fact, originates.

Moreover, the structure of the international criminal responsibility, the distribution of its income and consequences tends to asymmetry.

This transnational criminality has the most devastating impact on the people and states of the world's poorest regions. Their cultural and civilizational integrity and originality, their genepool, social cohesion are exposed to destruction, not even mentioning the destruction of the environment for economic establishment and development.

The criminal capital settles mainly in the developed countries, and having passed through the system of money laundering, works on their economy there finally.

We only mention the special "position" of terrorism against the global criminal schemes.

Terrorism, as it was formed on the positions (or slogans) of denying and preventing of degradation of the countries of the "third world", in fact, oppose also transnational crime, which is a strong indicator of this degradation.

It is clear that it is impossible to investigate this complex global problem, being especially socio-political and geo-economic within existing criminology with its insufficiently politically committed tools of internal origin and of mostly domestic mission.

In general, globalization used to be estimated as usually a polysemic phenomenon. The director of the Center for International Studies of Russian Academy of Sciences A. Utkin gives an in-depth definition of globalization considering it as a complex of three balances: 1) the traditional political balance of nations, where the USA is the only superpower nation that dominates the other ones and subordinate them to it in some way; 2) the balance between nation-states and global markets with global financial centers (Wall Street, London, Frankfurt, etc.) 3) the balance between nation-states and individuals who can act in the international arena in extremely effective way [7, p. 19].

Even this balanced definition, taking into account the above mentioned arguments about the crisis of the elites and democracy, states that the criminogenicity of globalization exceeds its anticriminogenic content.

It is clear that organized transnational criminality uses successfully a variety of globalization opportunities.

But from the point of view of the considered in this thesis problem we should pay attention to the "global", "geopolitical" criminogenicity of nature and of globalization itself and of the world order from which its criminogenic factors originate.

Certainly, sociologists, economists, political scientists and other experts of science and international practices actively display the problems of the unfair distribution of resources, technology and benefits, problems of unequal economic exchange, hypertrophied unreal sector of the world economy and financial manipulation in the stock market, which nullify the efforts of nation-states to create their own efficient economy, etc.

However, the processes and factors of the global level, which form the conditions and causes of delinquency of states (including criminal delinquency), have not become the subject of global criminological science yet.

The modern vision of social justice and its content for the different social groups and individuals is formed in the space of international political and economic relations based on many features. So only in the context of international criminology there appears a possibility to identify and offer in a reasonable way for criminalization the processes and factors of public behavior forming and developing such a distorted world where 1% of population make up the group of the richest and receive as much as 57% of the population belonging to the group of the poorest. About 1.2 billion people live on less than \$1 a day and 2.8 billion - less than on \$2 and more than one billion people have no access to clear water; 827 million suffer from malnutrition [11, p. 96, 97].

According to UNO, in 1960 of the wealth of 20% of propertied people in the world 30 times exceeded the income of the poor people, and at the end of the XX century this number increased in 80 times. The wealth of the three richest people in the world exceeds revenues of 600 million people living in the 36 poorest countries of the world [8, p. 21]. For the first decade of the XXI century the index world polarization caused by globalization increased with a depressing speed.

Considering the above mentioned facts, there appears not an easy task to perform for international criminology, the aim of which is not only to discover and study the international criminal mechanisms of global significance, but also to propose the ways of international criminal law-

making, and effective forms of institutionalization of international legal mechanisms for the implementation of international law.

The forming of this scientific direction seems not to be easy. This is a normal tendency for criminology in general.

The fact of developing of criminology of the soviet period also worth remembering, because this science in that period not only was not supported for a long time, but also was completely denied to a certain period. Such situation was connected with the possibility to reveal due to the results of functioning of criminology of the dethronement of the absence of grounds for the antecedent statements that there was no delinquency in the socialistic society.

In the same way the difficulties and further the revolutionary impact of the discovery by E. Sutherland of the phenomenon of "white-collar" criminality not only on criminal law, but on the social relations and wealth of the American society in general may be explained. As a result of this discovery, in fact, there appeared a democratic revolution in the society. In any case, the society was essentially democratized. In that period in the process of democratization the categories of social justice were actively materialized through the norms of criminal law.

Analogically the challenging prospects of international criminology should be assessed. International criminology steadily comes in contact with the problems of the global socio-economic polarization in the process of realization of studying of this science and its determinants. This is directly related to the anti-social (and, probably, anti-legal) practice of transnational capital. That means that international criminology is able to put under the question the viability of the existing world system.

In particular, today criminology as a social and legal science cannot leave without the substantial research the global trend of loss by states of the positions in the economy, trade, capital flows, and social policy. The government concedes here multinational companies, international organizations, or, as in Europe, supranational authorities. Being the result of changes in the general approach to the problem of the relationship between state and society, criminology should identify the criminogenic

factors and threats to the security of society, which, of course, not always match with the interests of transnational capital and the elites.

Since these problems have really a global character, however, and their untimely solving threatens the international community as a whole, then it turns out that one of the most important tasks of international criminology is to establish an international legal framework for the formation of a common "planetary" interest for the change of the world order and the awareness of this issue by all social strata and layers of the international community. The special activity of the international criminological researches should be associated with the global system crisis, when in the deep layers of the international society the natural desire arises to achieve fair approaches in solving the problems of the development of backward communities, states, of the allocation of resources, goods, spreading of the innovative technologies, etc. The implementation of such aspirations into the norms of international law is a logical contribution of international criminology as the act of fighting international crime, first of all, of the catastrophic nature.

The formation of the above mentioned "planetary" social interest within the canons of conflictology will likely happen (or rather, it has already been happening) within the global terroristic conflict. Since it is terrorism, as the most acute form of social action, that frankly exposed the destructive nature of social and economic structures and thus compelled states, groups of states and corresponding societies to come to global public consensus.

Therefore, the problems of international criminology of terrorism, which should be perceived as a typical actual direction of international criminology, induce a special interest.

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Part 5.

INTERNATIONAL CRIMINOLOGY OF TERRORISM AS AN INDEPENDENT DIRECTION OF CRIMINOLOGY

5.1. TERRORISM AS AN OBJECT OF RESEARCH OF THE INDEPENDENT DIRECTION OF CRIMINOLOGY

Since the late 60's of the last century terrorism has been spreading steadily in international political and economic space and penetrating in minds of political scientists and ordinary people. It has the increasing impact on the quality and content of international life. The dynamics of transformation of terrorism and its content are considered now as a new phenomenon indicating on deep specifics of this crime and determining the special approaches in learning terrorism.

Firstly, it is phenomenal that despite of the extreme violence and social danger of terrorist acts defining the nature of terrorism, the activity of this phenomenon continues to grow in the world. The number of the followers of terrorist methods of struggle is also growing and, what is more important, the global social base of terrorism which is its nutritive environment is in the process of expanding. The social base of terrorism will continue to grow at an exponential rate [25, p. 152] if the process of globalization continues to push some countries and regions outside the boundaries of modern civilization, as it was before.

At the same time there is a growing tendency to legitimize terrorism as a means of warfare, first of all through its camouflaging and dissolution in the dynamics of rebel and guerrilla tactics.

Secondly, it is phenomenal that in spite of the high social danger (and by some estimates, even of catastrophic nature), terrorism remains the undefined delinquency under international law, because there is no

generally accepted definition of the concept of this international crime and, therefore, of the international legal qualifying characteristics of its content.

Thirdly, it is phenomenal that, despite of the considerable efforts of international community in the political and legal sphere, of the adoption of the 13 international anti-terroristic conventions (the so-called universal instruments of anti-terrorism), of the formation of the branched (international, regional and domestic) anti-terroristic institutional system, the further escalation of terrorism is being observed now. Through the formation of the global terroristic conflict terrorism acquires the characteristics of a regulatory mechanism of international life.

And fourthly, it is phenomenal that terrorism with its asymmetric nature is correlated with the content of the current international socio-economic processes like no other crime does. It is the modern highly active phase of globalization that has extremely increased the polarization of these processes and added them the asymmetric type.

The above mentioned four phenomena of terrorism constitute a basis for the questions no less phenomenal in their simplicity: Is mankind in the process of fighting the right phenomenon (which in the appearance of terrorism represents a common threat)? Does the fight against terrorism exist in society?

Answers to these and other questions about the problems of terrorism are, above all, in the plane of the theoretical research of socio-legal science named criminology. So, if these questions are not clarified despite of numerous researches on the subject of terrorism done by lawyers, sociologists, political scientists and also of publicity, then another question arises: is criminology as a science about the causes of crime and its prevention able by its methodology and operational capabilities to embrace with its attention this criminal social phenomenon?

As this question is rhetorical, the answer is obvious: the traditional criminology, formed on the basis of domestic criminal law and serving mainly for realizing of the tasks to ensure the effectiveness of domestic criminal law, is not able to fully study the genesis and causes of such extraordinary international by its nature criminal phenomenon as terrorism.

Being captured by the traditional perception of methodology and capabilities of criminology in studying terrorism, the experts show their concern about the absence of universally accepted definition of terrorism and of the lack of studying of this phenomenon in general.

In particular, a well-known scientist and practitioner on issues of counterterrorism A. Kulikov states that modern terrorism has not been studied just like the "globalization" itself. What can be said about the causes of terrorism? Nobody is ready to give the answer. We believe that the real reasons of terrorism also are not listed. Apparently, there are different approaches in points of view here, the stereotype of the "cold war" persists and the different methodologies to assess the current global processes exist.

In addition to the reasons we do not know exactly the "trigger" mechanisms and particular subjects responsible for the terrorist attacks.

Since all these facts and also the causes are not clarified, the efforts of the world community in the new environment are largely ineffective. It is also equally obvious in the results of anti-terroristic operations in Afghanistan, Chechnya, the Middle East and in other traditional areas of terrorist activity [25, p. 153].

We can only partially agree with this formulation of the problem. Today the terrorism is quite learned from a formal point of view. The approaches to fight the terrorism are formed in international law. The thirteen universal conventions and numerous regional conventions were adopted providing a rather full range of anti-terroristic measures, taking into account almost all the different modifications of the crime. Terrorism is criminalized in national legal systems: the domestic law defines the concepts of this crime, provides severe criminal liability.

All these measures did not bring the expected results, so in this part the questions raised by A.S. Kulikov, are justified. The thing is that the criminological result concerning terrorism, which has found its above mentioned realization in international and national criminal laws, is based on estimations of terrorism inherent to traditional criminology formed on

the categories and approaches of domestic law and being developed for many years in connection with it.

That is why the criminological researches of terrorism, based on the assessment of it as a sporadic criminal dangerous act (of explosion, arson, hostage taking), did not lead to the understanding of the essential reasons for this international criminal phenomenon and as a result laid the false grounds for a forming of counter-terrorism norms of international law.

Confronting every day with the unreality of international anti-terroristic law (caused by non-compliance of determination) and its ineffectiveness, the experts and society than ask questions the same as Kulikov does.

Meanwhile, the answers to these and similar questions about terrorism exist. They can be found if we go beyond the methodology of traditional criminological science, and they are the components of primary factors of criminogenity originating from globalization and systemic crisis of world economy that accompanies it. This requires non-standard efforts to penetrate into the global classifications and forcing mechanisms of contemporary world development, also the understanding of the behavior of states in the global space and influencing factors, events and phenomena. Thus, we are talking about a complex of measures, approaches and assessments constituting, from the first glance, the unusual, special methodology and scientific instruments, which should be "adapted" to criminology.

So, in spite of certain non-traditionality and unusual nature, the "criminogenity" of the proposed process of studying terrorism and its results should be proved.

The previous authors' studies¹³ give reasons to believe that for the understanding of terrorism with a purpose of resolving of the global

¹³ See: Антипенко, В. Ф. Современный терроризм: состояние и возможности его предупреждения (криминологическое исследование) / В. Ф. Антипенко. – К., 1998. – 190 с.; Антипенко, В. Ф. Борьба с современным терроризмом. Международно-правовые подходы / В. Ф. Антипенко. – К., 2002. – 723 с.; Антипенко, В. Ф. Теории мирового развития и антитеррористическое право. Логика сопрягаемости: монография / В. Ф. Антипенко. – К., 2007. – 440 с.

terrorist conflict, criminology cannot be satisfied with traditional methodology and scientific instruments. The object of criminology research lies in a slightly different plane, other than the one in which the determinant of criminal delinquency is studied, including transnational determinant.

In the previous chapter the necessity for branching and specialization of the international criminology from the general criminology was proved. The basic reason for this, which is quite significant, is that there are two systems of law – international and domestic – and, thus, there is the presence of their specific criminological base.

Today the task is to allocate the criminological trend – international criminology of terrorism. This task is formally based only on the thesis of actuality of a separate international crime – the terrorism, its high danger for the international community.

It is clear that this statement a priori can provoke doubt in the scientific community and in the institutions of the international legal practice, because it is unreal to form "its own" criminology "for each" crime. To argue here would be to the point, referring to the possible temporary nature of terrorism as a transient social phenomenon, and therefore to indicate the inadvisability of questioning the reputation of science and its stability. It is impossible not to consider these and similar counterarguments and not to pay attention to them, as they are related to the nature and credibility of the idea of separation of the international criminology of terrorism.

The only way to deny the counterarguments, on the one hand, is to prove the uncommon character of criminal content of terrorism, its crime rate basis and, without exaggeration, its fateful importance for the international community. On the other hand, one should make sure in partial applicability against terrorism of existing methods of knowledge of crime determination.

On this basis, and considering that most of the researches in the criminal justice sector doubtfully treat terrorism as a form of criminal or, at least, transnational organized delinquency (while terrorism more clearly

finds innovative features of independent global phenomenon followed by asymmetric violence), it is necessary to focus on not standard approaches selecting the procedures of this research not strictly adhering to the tradition.

On the basis of the author's concept of terrorism as criminal socio-legal phenomenon that embodies the conflict of global warring parties it is reasonable to form the scientific argumentation with regard to international criminology of terrorism. Otherwise, the object of scientific research on this topic cannot exist.

The achieved results are expected to be elaborated in the criteria of criminological science to form the basic conclusion about the existing of the grounds for separating of a specific direction in the criminological science – international criminology of terrorism.

It should be noted that this task is not easy. On the one hand, terrorism, as the basis for the formation of a separate direction in criminology, has no specific criminal law "status" under international law. On the other hand, actually a "terroristic" specification of criminology science, which is assumed to be the cause of terrorism appearance and the definition of the concept of this international crime, must be proved and generated. But it is a symbiosis of development of these two interdependent socially important values that makes it possible to establish each of them in the jurisprudence.

The total positive result, as a conclusion about the reasonability of branching of international criminology of terrorism as the specific area of criminology, also serves as an evidence of the grounding of the author's concept of terrorism¹⁴, because the criminological, that is science-based, methodology for determining the content of this international crime is confirmed.

The fundamental thought of the international criminological vision of terrorism is that this international crime was formed and increased to the planetary level threat in the result of major defects in economic and

¹⁴ See: Антипенко В. Ф. Борьба с современным терроризмом. Международно-правовые подходы / В. Ф. Антипенко. – К. : Юнона-М, 2002. – С. 303-516.

political development of international society. That is terrorism appears to be a product of sustainable social crisis experienced by the international community, and in connection with this it took the form of a global terrorist conflict. The terroristic method of fighting terrorism (terrorist acts) itself is determined by the political conditions and socio-economic polarization both at the national and at the international level.

Studying international criminological basis of terrorism allowed to define it as a based on the violent conflict confrontation crime, which, along with causing harm to state, infringes on international security and world order, and is based on the difference in the political, economic and cultural interests of groups of states, individual states, nations, peoples, social groups and movements provided at least one of the sides uses the terrorist attacks as a way to influence the enemy in order to achieve political goals.

Act of terrorism as an international crime should be distinguished from terrorism in general. It is a generally dangerous criminal act of terrorism creating the conditions of influence on a certain international organization, government or their representatives, or legal entities or individuals with the purpose of forcing the realization of some actions or restraining from it. This criminal act is committed through intimidation along with the intent to cause the death of innocent people.

These definitions show the necessity of the specific criminology being able to assess and investigate terrorism not as something criminal, very dangerous and not well-defined, but as a clear, having semantic expression, criminologically based international crime containing crime as a phenomenon (terrorism) and crime as an action (act of terrorism). However, acts of terrorism can be committed not depending on terrorism, but in such a case they are qualified not as international crime. Beyond the global terroristic conflict, the part of which is the systematic use of terrorism for political purposes, such actions do not pose a threat to international peace and security. In national criminal jurisdictions such acts are rather clearly criminalized in sections defining offenses against individual and public security.

So, in a base of criminological search of essence of terrorism the conflictological approach lies allowing us to determine the availability of the global terroristic conflict and its parameters.

The opposing sides in this conflict are presented by world social megagroups. Therefore, rather conditionally one of the subjects of conflict may be defined as a social megagroup expressing the interests of the "third world", which as a result of destructive development of the global economy reached the level of survival. Radical formations representing (or aspiring to represent) this megagroup apply terroristic acts as acceptable for them and rather effective means of impact on enemy.

Another subject of global terroristic conflict is defined as a social megagroup which is also rather conditionally connected with the group of economically developed countries. This subject in conditions of systemic crisis of the world order, without being able to resolve the conflict in political and economic way, also uses force against the enemy, using the possibilities of state and of international organizations.

The object and the subject of the global terroristic conflict, which is a kind of social conflict, are caused by political sphere of social life that is power and power relations. Thus, the subject of a global terrorist conflict, that is the fact causing the confrontation, include the resources and control over them, territory, access to technology, benefits of civilization.

Accordingly, the object of a global terrorist conflict, as a general category, is a world order system, world order.

But for criminology the specificity of global terroristic conflict (which is rather soundly identified as terrorism by international law) is not limited only by its global parameters.

The difference of the terroristic conflict from other types of armed conflict is in the fact that the degree of its danger does not exclude the catastrophic consequences. This degree is determined by the "title" for terrorism way to fight – terrorist acts, which are used by at least one of the parties of the conflict.

In today's conditions of global crisis of society when we talk about physical survival of about two thirds of the world population, the armed

struggle of social and political nature has taken its new forms. It is enough to use the rebel and guerrilla tactics and its legitimized by international law irregularity, especially in the underdeveloped countries and nations, to achieve political goals (national self-determination, political and economic independence and territorial integrity, etc.). That's why since the late 60's of the XX century another uncontrolled irregularity came on stream. It is expressed through the "illegitimate" asymmetry of terrorist acts.

Accordingly, the subject of the direct influence of radical armed groups became not only military units, military and government objects and objects of military infrastructure that are the characteristic feature of partisanship, but mainly civilians not directly participating in struggle, as well as correspondent material objects. At the same time the qualifying characteristic of terroristic methods are not just innocent victims among the civilian population (they are inherent to any armed conflict), but the intention to cause the innocent victims as the most easy way to impact on the government and to reach the political purposes.

Such a deformation of means and methods of struggle into more severe correspond to the conditions of cruelty and perfidy of the systemic crisis in the world order making billions of people in the world to just survive. In the conditions of this crisis the global terrorist conflict has appeared and continues to develop. Its characteristics are considerably determined (even the name) as a "unique" way to fight, that is a terrorist act. Asymmetry (i.e. – cruelty) of this way of fighting will increase along with the process of increasing of the crisis scope and its severe social components. The increasing of terrorist asymmetry and increasing of the range of its application will be a response to the growing social asymmetry, which is expressed primarily in the growth of polarization at the interpersonal, inter-group, interstate, international and inter-civilization levels.

The revolutionary nature of terrorist acts as means (or tool) of struggle is that their current application makes basic changes in priority and values system in the relations between states, social groups and civilizations. It happens, because every act of terrorism, being objectively the ordinary

criminal act (explosion, arson, hostage taking, etc.), can by its asymmetric nature *directly* embody (and, as a rule, does) the political confrontation at interstate, international and geopolitical level. Significantly expanding, thus, the scope of the subject-object relationship of crime, terrorist act at the same time creates the conditions for the transformation of these relations into the form of opposing set of subjects of international crime – terrorism. It should be noted that the formation of criminological approach and system methods are significantly influenced by the fact that in these conditions the significance of the criterion of military-economic potential of state is quite considerably leveled.

Phenomenal asymmetry of terroristic attacks as a means of struggle, in fact, reflects the absolute nature of the parties in terrorist conflict, which generally has a socio-economic background.

We can say that the situation in the world develops within the scenario of a terrorist act: the poor majority, which has found itself outside of modern technological development, with the extremely dangerous asymmetric means of struggle – a terrorist act – tries to eliminate the other asymmetry – a global socio-economic development gap. This poor majority with the increasing extent take as hostage the wealthy minority, pushing to the international community the ultimatum, the worst alternative of which is the possibility of a catastrophic outcome.

The reality of the scenario is stipulated for the unique asymmetric means of struggle, which is the act of terrorism. Coming out of the partisan irregularities, terroristic act constitutes a completely different quality of means of violent impacts which is in detail explored in the authors' theory of terrorist asymmetry¹⁵.

According to the main conclusions of this theory the terrorist act is characterized by the extreme (absolute) irregularity which is capable to neutralize any material-technical and military-economic supremacy of the opposing party.

¹⁵ See: Антипенко, В. Ф. Теорія терористичної асиметрії / В. Ф. Антипенко // Оптимізація антитерористичної системи держави в умовах міжнародної та регіональної інтеграції. – К., 2008. – С. 23-64.

For the absolutization of this irregularity (i.e., of the radicalization of the conflict), there are virtually no boundaries, since the terrorist acts arsenal, that includes in most cases unprotected (random) peaceful people representing their civilizational stratum (and are absolutely available for the terrorists), is practically inexhaustible¹⁶. Besides, the edge of the terrorist struggle is directed to the opposing side in the terrorist conflict and, therefore, the acts of terrorism, including those committed against fellow tribesmen, are addressed to the same strategic adversary.

The arsenal of the potential perpetrators of terrorist acts, including "suicide bombers" is also inexhaustible. We should also pay attention to the fact that, taking into account the economic downturn and despair, the social support of terroristic counteraction in the global dimension increases.

It should be added that in the result of migration, ethnic and racial assimilation in the world (e.g., in Europe) human vulnerability to terrorist acts abroad managed the critical level and now is irreversible.

So, in essence, we are talking about the integration of cruelty of terrorists and their direct victims, which mostly conclude the same part in the terrorist conflict. This comprises a kind of a social contract in the territories of the "third world", a kind of a terrorist front, and this points to the signs of a complete desperation obtaining a global character and confirming the possibility of a catastrophic final of the struggle for us all.

In these conditions the trend in international law to absolute crime terrorist attacks leaves out (outside the law) the motivation of criminal conduct of "terrorist" side. This trend is counterproductive, since it increases the level of conflict, as well as the neglect of the social and economic determinants of terrorism in general.

From the time of E. Durkheim criminology (although it was then not defined as an independent social and legal science) was to monitor and evaluate not only the threat of criminality, but also its inverse constructive influence on the development of a certain social system.

¹⁶ This is expressively demonstrated by the situation in Iraq where the losses of the coalition caused by the terroristic actions of the gunmen make up more than 5 thousand military men, and the victims of civilian population are numbered by hundreds of thousands.

However, according to the above mentioned facts, criminology of international terrorism can not be limited even by such functions. This, in fact, determines that measure of the importance and specificity, which forms the basis for separating the "terrorist" direction in the system of criminology as the science. With its meaning and purpose criminology of international terrorism should go further: it must produce the system of arguments, conclusions and recommendations regarding the necessity and inevitability of global innovation arrangement, and perhaps its essential changes. The specificity of international criminology is not limited by those global and radical research approaches. Defining the genesis of the terrorist crime, international criminology in contrast to the "general" criminology, should not only focus on finding ways and means of fighting terrorism.

It is believed that, by evaluating the manifestation of terrorism as an extreme form of social signals, international criminology is supposed to create the research opportunities for identification of global social consensus and the development of international criminal law mechanisms of this process.

Inherently, it is within the international criminology of terrorism that the components of systemic crisis are found as a completely asymmetric way of protest. Such components brought to life acts of terrorism. These components reflect the essence of the modern world, which is based on the distorted values of liberal capitalism, and result in the polarity of the results of the functioning of global economy for the social megagroups that are defined as parts of the global terrorist conflict.

That's why the solution of the problem of terrorism should be associated with the new principles of the organization of world economy and relevant international relations. Social basis of terrorism points on the fact that effective measures to overcome this criminal phenomenon must be complex and based on a political decision and significant socio-economic changes, ensuring compliance with international legal regulation.

It should be noted that the above mentioned facts do not deny the need for measures of force to counter the terrorist acts.

First of all, it should be done in order of restraining influence, which aims to reduce the level of terrorist violence and extremism in general. In international law this approach is quite common and it is used within the institution of emergency measures to provide, where necessary, the exercise of jurisdiction in international proceedings. In addition, the spread of terrorist practice is a dangerous precedent of asymmetric conditions of social order and may be a base for its own regulatory acts and civilization development. And finally let's mention the main thing. The value of human life is the highest value, and any efforts to preserve human lives deserve respect and any support.

Thus, the specific character of the research direction, which is made up by international criminology of terrorism in the system of general criminology, is associated with phenomenal features of terrorism, its multidimensionality and diversity of levels of manifestations of this international crime. Revealing the phenomenon of terrorism, which combines its extreme danger and at the same time a crucial role for the international community, international criminology of terrorism should justify the need for and encourage the implementation of specialized basic researches in such important areas of science as geo-economics, geopolitics, conflictology, sociology of international relations, cultural studies, military science, etc.

Only on the basis of processing and generalization of the results of such studies international criminology of terrorism is able to identify and recommend a systemic focusing of political and legal practice on eliminating of the conditions and causes of terrorism.

In addition it is important to realize that terrorism is the product of international social relations and modern world-system as a whole. It came out of the destructive crisis of modern world system, acquired characteristics of a criminal phenomenon that has risen outside the world system and pretends to change its destructive content. This concerns also the essential component of destruction which is the transnational criminality for the extreme development of which the world system in crisis in fact creates a favorable environment. Therefore, putting terrorism

and transnational crime on a same criminological level would be, at least, thoughtless.

5.2. THE INTERNATIONAL NATURE OF TERRORISM AS A FACTOR DETERMINING THE SPECIFICITY OF ITS CRIMINOLOGY

When it goes about the integrity of a particular science or any its area, the question about the integrity and uniformity of the object of its study should be raised.

For the science of criminology such a common object involves global and domestic socio-legal and criminological realities which objectively determine the content and issues of criminal policy and criminal law.

As it was already indicated, this assumes the study of basic social, economic and related to them criminological patterns and trends of the modern world. It is obvious that globalization, being the main part of the system of the modern world, has not realized as the objective integrational geo-economic and geopolitical process, the results of which should be in general profitable, involve improving the welfare of all nations and states, make the world mutually acceptable and peaceful.

Not denying the positive characteristics and results of globalization, the high level of communicativeness, opportunities for mutual understanding, etc., it should be mentioned that globalization still produces larger quantity of negative factors forming the basis of a world system crisis.

Among these negative factors the terrorism is as the undisputed indicator of globalization. The level of its threat to the international peace and security and, at the same time, its role in international processes increases.

5.2.1. Criminogenity and terrogenity of globalization

The managing of globalization by the superstate USA and some other economically powerful states and groups of states makes the globalization as a social megaprocess polarized. As a result of such polarization the strong developed countries, as always, take benefit. The poor countries of the “third world” received the problems of inequality, hunger, unemployment, total poverty of population, as they are unable to correspond to the conditions, which with double standards are proposed by the managed globalization.

As the vice president of the World Bank Joseph Stiglitz fairly mentioned, nowadays the hypocrisy of the developed countries has become obvious; they under the pretext of assistance make the developing countries open their markets for the foreign goods and at the same time they keep their own markets closed [41, p. 10-13].

This produces and intensifies the criminogenity of the zone of the “third world” countries, since the countries with the poor economies, undeveloped legal systems and law-enforcement infrastructures have become the center of activity for all kinds of delinquency, the favourable environment for building of the international schemes of organized crime. It worth mentioning, that this fact cannot be considered as a planned intention of the “managers” of globalization. It is unlikely that they are interested in developing and spreading of the transnational criminality causing large damages to the national and transnational capital.

It is possible, though, to determine the characteristic features of the process of the mutual assimilation of the transnational organized crime and legal international economical and political practice taking into consideration the sphere of criminogenity of the latter and the actuality of the criminalization of the different its manifestations.

The organized criminality itself in most of its aspects appears to be produced by capitalism. The globalization of the capitalistic system is accompanied by the corresponding “globalized” processes in organized crime, which acquired the powerful transnational forms.

In due time the capitalistic explosion caused the mutation of the phenomenon of delinquency resulting in transforming of the most steady delinquent groups in different countries into criminal monsters, which, in fact, are invulnerable to the destroying influence of a state. As a result of evolution in the cruel "social selection", the strongest groupings managed to find the necessary social niche and such a form of a social existence, which brought all the efforts of the legal-enforcement system to destroy them to nought and neutralized all possible mechanisms of the social control [22, p. 295].

The famous French sociologist of the early XXth century G. Tarde observing these process noted that "criminality is undergoing a dual morphological evolution, which makes it a characteristic indicator of each historical period for each social group" [46, p. 177-178].

The tendency of increasing of the volumes of transnational criminal sphere to the level of comparability with the legitimate transnational economy indicates on the compliance of the modern transnational crime with the conditions of "social demand" from pseudoelite and oligarchic capital.

Transnational delinquency has become a global business. It brings huge profits to organized criminal groups and threatens the state organization of many countries. It is assumed that it generates the revenues of approximately 500 billion USD a year, but according to some other sources, this amount is three times more. In 2000 it was laundered the amount of money of from 500 billion USD to 1.5 trillion USD [5, § 174]. In separate regions the huge profits coming from criminality compete with the GDP of some countries creating, thus, a threat to their government, economic development and the supremacy of law [5, § 166].

The evidence of the trend towards mixing of criminal and non-criminal (for now? or conditionally non-criminal?) economies is a faster response of the first one to innovations of all kinds. The organized criminality quickly responded to the appearance of the modern computer and telecommunication systems and managed to adapt to the new global opportunities. The intensity of the integration of the world economy

facilitated both legal and illegal operations. In its turn, the closer integration of the world financial and other markets led to the fact that the cumulative effects of crime are rarely limited to only one country. For instance, the effects of the large-scale fraud in a banking system, realized over the past decade, have truly a global character, as affected the interests of investors from around the world and damaged the bank systems in a number of developing countries [31, § 10, 12]. That means that the signs of a merger appear, when the noncriminalized sphere of international economic relations, formally based on the largely corrupted government relations and structures, competes with the criminalized sphere resting (or parasitizing) on the same corrupted governmental agencies. At the same time the profound crisis in the global economy lead to the idea of the virtual border between the criminalization of some governmental agencies and noncriminalization of the others.

In other words, it is the criminalization or criminogenic nature of the world system that determines the socio-economic degradation of the regions of the “third world”. The social protest of disagreement with such in many spheres criminal or criminogenic arrangement of the world economy and its social consequences gave rise to the terroristic forms of resistance. And this made the conflict, firstly, global, and secondly – terroristic. Therefore, this global terrorist conflict (i.e., terrorism) as a confrontation, embodying the social resistance to criminogenic (and criminal) content of existing world order, is a global phenomenon of a different order than the transnational organized crime. The latter is the internal factor of non-viability of the world system, because, according to experts, it is the capitalist mode of its economic reconstruction that creates the favorable conditions for the appearance and development of organized crime. It embodies, in fact, the dual process of commercialization of criminal groupings and the criminalization of business (“a child of the criminal world and business, which has, like the centaur, two parts of both”) [22, p. 299].

As for terrorism, it originated from the social-economic side effects of the world order, among which is a transnational organized crime. Terrorism

in severe criminal form challenged the world system, which is indirectly connected to this criminality. There are reasons to believe that one of the causes of appearance and escalation of terrorism is organized crime gaining a transnational character.

The sharp decline in living standards, the significant social stratification based on abuses, corruption, plundering, the criminalization of the ruling elite, the practice of inciting wars lead to a fantastic enrichment similar to that one achieved through machinations on the international financial market. All this is the result of the boundless capitalization, supported with the powerful criminal influence. It was E. Ferri who once warned about the danger of the slogan of "become rich" and the moral illness of *krezomany* (mania of wealth) [46, p. 180].

In such circumstances the half-criminal nature of world economy finally destroyed the hopes for the implementation of the basic principles of the UNO, in particular of the sovereign equality, of the right to development and adequate existence of each state and of every person.

The diverse assessment of vitally important for society criminal phenomena, which consists of transnational organized crime and terrorism, so obviously put a question to the quality of criminology in international crime sphere. It turns out that it could not "see" the principal differences between the functions and role of these phenomena that are in general related. Being affected by national criminal law, criminology (if it participated in general) put terrorism in the same line with transnational crime and, moreover, called it one of its kinds.

As a result of the presence of the same syndrome of domestic criminal law, criminology is unable to distinguish between causality of transnational crime itself. It means that the fact that the part of the international crime was formed on base of secondary, criminogenic factors, specific to internal criminal mechanisms. Such, for example, are: drug trafficking, arms smuggling, illegal migration, human and human organs trafficking, etc. The other part is formed on the basis of the primary factors that are associated with defects of the world economy, politics, and international social relations. Criminology should consider the justification for their

criminalization as one of its priorities on the way of the prevention of both transnational organized crime and terrorism.

Thus, we can say that outside active criminological cognition the important indicator of the condition and mechanisms of international crime appeared: some kind of a criminal *continuum*, in which criminal and criminogenic or potentially criminal element compete with one another.

It is important that terrorism having come out of the crisis of the world-system as a criminal phenomenon did not remain, as opposed to transnational crime, in its generative environment. With the political context, connected with the change in world order, terrorism seems to take place outside of world system with its "internal" criminal and criminogenic processes, and has a purpose to bring about changes in the world order, certainly accompanying the removal of these processes.

This is the evidence of the opposition of essences of transnational crime and terrorism, and of the presence of the structural function in the latter. Although we should treat the estimates of the structural elements with caution, as it manifests itself in conditions of crisis of catastrophe generation, which are caused by globalization.

As the analysis shows, transnational crime is an objective product of the systemic crisis of the world order. As the famous in the world magnate George Soros thinks, the global competition does not allow the multinational companies to pay a lot of attention to social and, especially, to the criminological problems that may lead to the detrimental influence on their own profitability operations [40, p. 271].

However, the increasing of criminal delinquency is observed also in economically developed countries and regions. The intensive, proactive on other social processes criminalization of the "third world" countries strengthens the polarization trends, generates the striving of developed countries for separating themselves from the complex of social problems of poor regions. But because it is objectively impossible, taking into account the unity of the world and world society, they appeared all together in their own trap. Poor countries and people appeared in a trap because of the threatening catastrophic condition of their national economies and

generated by this acute social problems. Economically developed part of world appeared in the trap, because its hope to separate, protect itself from the problems of the poor regions and digest its own well-being is not justified. The famous German economists H.-P. Martin and K. Schumann aptly identified this as a "trap of globalization"¹⁷. So, from the point of view of the studying criminological problems of transformation of the national crime into transnational international form in the context of globalization of political, economic, informational and communicative processes, it should be proceeded from the unity of the world and the interdependence of the circumstances and the facts produced at the opposite ends of its increasing polarity.

Criminological science can not stay away from criminogenic process produced by globalization. The professor V. Luneev writes: "We need to realize how the historically ancient process of criminalization of human relations and the fight against crime will develop in the near future in conditions of the progressing modern globalization of world or how in the near future the process of globalization will proceed in conditions of rapidly growing crime on various levels and forms of its penal control" [27, p. 21].

The problem is that in the context of growing internationalization of relations criminogenity and criminogenic factors and grounds acquire new, unusual for criminology forms and "images". Criminology seems not to notice (and perhaps and is not able to notice) their presence in the international social life, it does not respond with its researching focus to these factors and, thus, international criminal law does not receive the adequate grounds and recommendations regarding the content of the international norms setting and penal control.

Concerns about the unsatisfactory level of criminological research of globalization are expressed by V.V. Luneev¹⁸. He thinks that crime in the

¹⁷ Мартин Г.-П., Шуман К. Западня глобализации. Атака на процветание и демократию. Пер. с нем. – М., 2001. – 335 с.

¹⁸ Luneev V.V. Эпоха глобализации и преступность // Luneev V. V. – М. : Норма, 2007. – 272 с.

world (with the exception of nuclear terrorism and certain hazardous threats to people in power) is perceived by the ruling elites as an inevitable fact. The rich produce relatively reliable security measures of protection from criminality, but for the poor it is their natural habitat. However, the crime that accompanies globalization increases. Between the scientific problems of the criminal cycle the criminogenic and other criminologically relevant impacts of globalization have a particular importance in the structure of the negative effects of global changes. They need adequate penal policy and criminal legal control of both new and traditional forms of socially dangerous behavior [27, p. 10].

The following important criminogenic problems of international life have not gained the criminological "status": socio-economic standard of living; the problem of economical parasitism of quasi-economy and of particularly damaging to the world economy market of financial speculation; the erosion of state foundations of world construction and, as a consequence, weakening of the abilities of national governments in management of society and prevention of crime; the threat of selfhood preservation (and possibly of preservation of existence) of civilization cultures; the threat of global criminal anarchy, and especially the regulation of social life on the terrorist basis, etc.

In addition, a significant number of factors is outside the influence of international law and even of international morality. According to the concept determining the contents of existing criminology, these factors do not fall under the definition of criminological ones. This primarily relates to the terms of international trade, equivalence of economic exchange, access to markets, estimates of labor force, visa-free travel regime, priority of cultural and civilization identity, etc.

Criminological attention to the above mentioned and other factors possessing the features of criminogenity would separate the international criminal law from any inaccuracies, erroneous rules and regulations concerning transnational crime and terrorism. This influences the effectiveness of anti-crime activities and especially terrorism, because the

international anti-terroristic law does not create even prerequisites for controlling of terrorism, and in some sense is counterproductive¹⁹.

The problems of criminological assessments of transnational crime, discussed in the previous section, clearly form a basis for the raising of the question of branching of international criminology as an independent direction of "general criminology" science. But when it goes about terrorism, its genesis, causality and of creating of effective system to deal with it, it is obvious that even the availability of this form of the specification is not enough to cover terrorism with any effective criminal policy and criminal control.

Because of multidimensionality, multi-levelness and global scale of this international crime, there are many signs of it. But we should emphasize those that indisputably indicate on the need for fundamentally different from the commonly accepted criminological methods and approaches defining not only the criminal anti-terrorist policy, but also giving arguments for its transformation to the level of geo-strategy. And this is connected with the political and socio-economic decisions influencing the world processes.

These features first of all include:

a) the international nature and origin of terrorism as an extreme form of social conflict, its "external" to dominant status regarding the international system;

b) the extremely irregular way of fighting forming terroristic asymmetry, and thus the reality of confrontation of different economically potential megagroups of civilization;

c) the special international legal qualification of the international crime of terrorism, the essence of which is the presence of the aggregate of the subject of delinquency;

d) the phenomenon of striking discrepancy between the critical criminogenic role of state in appearance and escalation of terrorism and its

¹⁹ See: Антипенко, В. Ф. Характеристика действенности международно-правовых положений в борьбе с терроризмом / В. Ф. Антипенко // Борьба с современным терроризмом. Международно-правовые подходы. – К. : Юнона-М, 2002. – С. 373-408.

legal "neutrality" (detachment) within the functioning of the international legal institute of responsibility for this international crime;

e) the terrorogenicity of state elites and oligarchic capital which remains without proper attention of international law.

Before considering these factors in details it should be noted that, firstly, they clearly indicate the specific nature and genesis of terrorism, its unique "decriminology" (judging from the "traditional" standards of criminology). With this comes the realizing of inability of understanding of the causality of this crime and ways of problems solving of its removal without using of new specific criminological approaches and methods.

Therefore, there follows the need, secondly, for the formation of the special content of criminology (criminological direction), which includes the development of the new "globalized" methods of study of the phenomenon of terrorism. We are talking about the methods, which are carried out in scientific categories covering the world's problems. Another difference of criminology of antiterrorist direction is in the "internal" location of methodology of sciences adjacent with the sciences of criminal cycle (geo-economics, geopolitics, sociology, international relations, culturology, etc.), that is "inside" the system of science of criminology. Thus the main features of these related fields gain the anti-terroristic content.

Consequently, the relationships between criminology and these sciences on a "customer – contractor – subcontractor" scheme in international criminology of terrorism can no longer be effective, since there is lack of mobility and possibility of reaching goals of acting of this scheme. This does not indicate the signs of absorption by criminology of the related sciences. On the contrary, in antiterrorist criminology such sciences are filled with existential features; acquire a new political and social significance, the actual "sounding". The planetary threat caused by terrorism in this case points to the need for restructuring of research priorities, pushing the former "customer" to the role of mover and coordinator, without infringing in any case on the authority and unique role in terrorism cognition of each individual terrorism science.

Moreover, in connection with such a close affinity of antiterrorist criminology with other social and political sciences, we may raise the question about the counter formation of anti-terrorist criminological trends in the system of sciences, or rather, in each of them. In other words, it is possible that the complex of international criminology of terrorism (as the directions of criminology) could include the geopolitical criminology, geo-economic criminology, etc. We should pay special attention to the unique contribution which these sciences make and are able to make in the cognition of terrorism determination.

Consequently, provided the availability of the organizational and coordinational role of criminology, such antiterroristic unit of sciences with globalizational resolving capabilities could generate the real direction of criminology – international criminology of terrorism.

In searching for the other arguments of availability and prospects of forming of international criminology of terrorism lets go back to the evaluation of specific criminogenic factors of terrorism, which form the phenomenon of this crime.

5.2.2. International criminological characteristics of transnational criminality and terrorism

In general, transnational organized crime, as a typical international version of criminality, has primary intrastate nature. The globalization of the world created conditions for release of the certain types of criminality beyond a state. The globalized conditions of functioning of liberal capital provided the crime with such large capabilities, that during the period of the end of the 20th – beginning of the 21st century the criminality just exploded with its impressive scale and huge financial development.

At the same time, together with spreading of criminality beyond a state and gaining by it of the international element, the mechanism of criminal behavior does not change significantly.

Corpus delicti has the traditional qualificational and legal characteristics. The subjective elements of offense are defined as before by

human psychology, his selfish motivation and individual behavior. The objective factors and conditions of criminal organized crime in international space are different in scale of operations and need only to improve organizational criminal action methods and expanding their scope.

By definition, transnational offences as criminal delinquences that fall under the jurisdiction of two or more states are not intended to destroy the system of international security. However, transnational organized crime objectively creates such a threat. In his report the General Secretary of UNO Kofi Annan said about the reform of the UNO the following: "The access of the illegal groups to high technologies and weapons, as well as to the various institutions with the help of which the global market economy operates, significantly increased the potential of power and influence of these groups creating a threat to law and order, and to legitimate economic and political institutions"²⁰.

Therefore, criminology is able to study the causes and threats of such criminality making the proper changes in scientific and theoretical methods. The necessity for these changes is also stipulated by the fact that the increase in crime and its internationalization require international cooperation to fight it. Criminological science should also undergo some changes. It must consider that the regulation of the interaction of international and domestic law in such a sensitive area to a large extent is realized with the help of softer means than the law. Such means are, for example, the international standards.

Terrorism directly infringes on international peace and security, as its aim is the change of the world-system, a defective organization of which creates totally disparate living conditions for initially equal by nature and God, globally separated groups of people and states. Therefore, criminology studying criminality is destined to go even further in the process of changing its internal content. It must come from a fundamentally different mechanism of criminal behavior, which is based on a complex set of criminal actions of terrorism. Determinational implementation of this formula of combined entity of terrorism, and of the key principle of

²⁰ The UNO Report: A/51/950.1997.July 14. – P. 48.

terroristic asymmetry to understanding the phenomenon of the effectiveness and dangers of terrorism require the formation of fundamentally different scientific, theoretical and methodological tools of criminology.

In the doctrine the domestic origin of the transnational crime is, in fact, not even argued. The concept of "transnational crime" does not have a clear interpretation. It is a broad in its meaning concept that includes various types of crimes, which mainly can be referred to the organized crime category, sometimes even to a couple of categories at the same time [67].

The traditional factor of crossing of boundaries by criminals or detecting the results of their illegal activities outside the country in which they were committed is considered as a mandatory component of the functioning of transnational crime, which is in a mobile dynamic state. The intersection may be in transferring the information, that is it may be "virtual" rather than physical.

The official definition of the UNO of transnational crime focuses attention on the transnational criminal activity: "The offense covering – in the aspects connected with planning, committing or with the direct or indirect consequences, – more than one country" [68].

Consequently, national in their character of criminal legal prohibitions such crimes may be considered as international by the meaning of criminal activity.

Developing this idea, N.A. Zelinska believes that the concept of "transnational crime" includes a wide range of activities of varying degree of public danger, qualified as an offense in law in at least two states whose jurisdiction covers them. The coincidences of multiple (two or more) "criminality" construct the concept of "transnational crime". This concept reflects the international nature of the criminal activity on the background of *national origin* of the criminal legal prohibition.

The question of individual behavior criminality and its qualifications with respect to this category of crimes is solved solely in national law [20, p. 198].

The process of globalization of the legal space intensifies the "internationality" of transnational crime through the introduction of the so-called international legal standards. Most antiriminal conventions contain provisions specifying the standards of criminal legal prohibitions with respect to some of the most dangerous actions.

It is interesting that the use of the term "international criminal law" to name the complex of international legal norms forming around the category of transnational crimes raises serious objections. For example, the famous British international lawyer J. Schwarzenberger considers that the actions constituting piracy or war crime are not considered a crime under international law. According to him, there are rather provisions of international law about piracy as a crime *jure gentium* and war crimes that are prescription for states aimed at suppressing piracy within their national jurisdiction, and providing appropriate control of their own armed forces. In the same way the scientist considers the definition of the international character of slavery [62, p. 263, 265, 268].

For our study it is important that the national origin of transnational crime requires full compliance of the traditional methods and forms of criminology for its criminal legal securing. There is no doubt that the international element in the characteristics of transnational crime dictates the need to make methodological adjustments related to the planning and researching of the problems. So, not without the assistance of criminology, which attracted attention and examines the problem of the increasing scale and danger of transnational crime, the need for multilateral cooperation between states and a coherent strategy of deterrence of crime is stated. There is an obvious trend towards the expanding of the common to many countries (or even most of them) criminal legal prohibitions resulting from the corresponding international agreements [30, p. 26].

As criminological recommendations, the problems of the relationships between international law and domestic law are actualized, with a trend towards the internationalization of the national law. Through the international conventional mechanism involving the responsibility of states to establish the criminal prohibition (not containing, though, criminal legal

norms directly determining crime), the so-called transnationalisation of criminalization is realized.

However, as it was mentioned earlier, the "internationality" of criminology in the field of transnational crime and other forms of criminal delinquency with the international element is limited by the improvement of the research methods of such criminality, their adaptation to the international conditions of the actions of criminals. In some cases, it could be nothing more than a change of approaches to the studying of the particular problems of such crime.

This is connected with the national origin of transnational crime, adequate estimates of it by states and other actors of international life, as well as with the same, in most cases, interests of states, regardless of their political preferences and geopolitical situation. The transnational criminality does not encroach on the system arrangement of world economy and on the world order as a whole. It is, so to speak, not interested in it from the point of view of mechanism of its existence, which is a criminal regime of parasitism in a legitimate socio-economic area. And this world-system, which is based on the capitalist model of world order with its global oligarchy, provided the unprecedented opportunities for the development and escalation of transnational organized crime. Therefore, in contrast to terrorism, the common object of crime of which is precisely the system of world order and the aim of which is the change or serious reconstruction of this world order, the transnational organized crime is satisfied with the favourable environment that is formed for it by the capitalist world-system. Here, however, the question about the legitimacy (and possibly about non-criminality) of world system itself is raised, because it is doubtful that the system, remaining non-criminal, is able to produce international crime in extremely large scales. But this is the subject of another study and in the process of review of the international legal characteristics of terrorism this question will be raised again.

Taking into account all facts mentioned above, it should be emphasized that the criminological assessment of international criminal delinquency is based on the internationally sociological approach,

according to which the international community is considered as a collection of states and derived from them international actors. That is why there remains a priority of the national vision of criminogenity, even in those cases when it clearly has an international character.

International criminology, that is connected with international by their origin crimes, in particular terrorism, adheres to a fundamentally different approach, according to which the international community is seen as a unified social unity, and it is within such its global social nature that the ways to solve the problems of the most danger international crimes are considered.

This to some extent is grounded also by the mechanism of international crimes, including terrorism. If transnational crimes harm the economic interests of certain states, businesses and individuals (transnational corporations, banks, etc.), then the construction of harm causing coming, for example, from terrorism is another. The part of, actually, the material damage caused to a particular state, is quite small here. The main political and psychological damage in this situation is caused to the international community and is perceived by it exactly in this way. It is clear that every terrorist act committed to another country, is perceived by almost every state as a threat to itself, but the threat is seen as a threat to a part of a larger system - the system of the world.

Such a specific nature of the criminal impact of terrorism on the international community shows its international nature and foresees the need for specific criminological tools and methods of finding of ways to prevent and neutralize the crime. Their nature and scope are determined by the interests of the providing of security for international community as a great social organism. Consequently, the content of international criminology is determined by the fact that the study of the main strategic determination of international crimes and, in particular, terrorism it performs mainly through the analysis of the functioning of the international community as a whole social system in the whole conglomerate of interrelations and interactions of its elements and search among them those

compounds and situations which constitute the causes and conditions for international crime.

This is the fundamental principle of international criminology. It resembles the supreme principle of *pacta sunt servanda* ruling in international law. However, it does not exclude the clarifying of the specific causal factors, originating from the relationships of the particular states and other actors of international relations.

It is on the basis of such a complex criminological approach (principle) that the main method of criminology concerning terrorism is harmonically separated. This approach is based on the qualification of the summative subject of body of this international crime and gives opportunity for the specific criminological methods and appropriate counter-terroristic legal policy.

The situation concerning the criminal international delinquency, the primary mechanisms of which still are formed in the domestic environment, is slightly different.

Even the presence of international content in it does not give reasons for the appearance of the separate criminal law policy. It is impossible, though, for the modern criminology not to take into account the beneficial effects of certain conditions of the international environment on escalating criminal delinquency.

5.2.3. The international nature of terrorism

Terrorism, certainly, has the international essence. It, as well as the transnational crime, is a product of globalization (in its broadest sense), but, unlike the latter, the international (globalizational) origin of terrorism possesses completely different quality and consequences. The systematic terrorism²¹ in the modern form of the planetary threat was formed mainly

²¹ Terrorism as the international crime in the definition suggested here should not be mixed with the numerous acts of terroristic character committed on the everyday and beneficial basis. They were qualified to the full extent according to the corresponding bodies of crimes (see the Criminal Code of Ukraine).

on the basis of the national liberal movements that in the 50s of the last century captured the regions of the world being in the colonial system. At first victories in the struggle for national liberation were quite assured by the use of rebel and guerrilla tactics. In this way, in the early 60s a significant number of African, Asian and Latin American countries got national self-determinations to themselves. But limited opportunities of guerrilla movements against the might of the dominions make themselves felt, their activity subsided.

The attention of leaders of the national liberation movements increasingly was attracted by the high efficiency of terrorist acts. It was during this period that in the economically developed regions (Western Europe, Japan) extremist groupings of left- and right-wing orientation appeared. They used quite effectively the acts of terrorism. Because of the lack of the proper social support such groupings as the "Red Army" (Japan), "Baader-Meinhof Group" (West Germany), "Action Directe" (France), "Red Brigades" (Italy), ETA (Spain), and others suffered defeat, but still they made their contribution to the formation of terrorism. The protest forces of the planet realized that the economical development of the regions, nowadays called the "third world", which was declared by the United Nations Organization, did not happen after the national liberation (also declared by the UNO). These forces began to consider the terrorist attacks as that violent means of confrontation, which makes their struggle for access to the very development a reality.

The terroristic methods of struggle going outside the characteristics of partisanship began to be used along with generally accepted and regulated by international law strictly guerrilla warfare actions. The fundamental difference here is the following: in order to have the impact on the enemy in the absence of appropriate military tactical capabilities, the armed attack (act) is committed not exactly at those of its members who have weapons and are officially designated as participants of the armed conflict and are protected by measures that make a variety of conditions of military conflict. The representatives of the unprotected environment, usually

civilians, not directly involved in armed conflict innocent people are supposed to targeted attacks of sudden, insidious forms.

The awareness of the phenomenal confronting opportunities of the terrorist methods of struggle in this period determined the emergence on a systematic base also of the new organized structures of religious and ethnic and Marxist character, which were aimed at national and state self-determination, national-cultural autonomy, political and economic independence, a change of government structure and of constitutional order.

Thus, in 1963, the Revolutionary Army of Kurdistan (Turkey) was created, in 1964 – The Palestine Liberation Organization, in 1962 the Basque organization Euskadi and Askatasuna (ETA, Spain) was formed, in 1976 in Ceylon the organization "Tigers of Liberation of Tamil Elam" began to act etc.

The new impulse of activity the famous rebel groups received: the Irish Republican Army, the Indian Sikh movement, the formation of the Latin American "Tupac Amaru", "Sendero Luminoso", all kinds of revolutionary liberation armies in Latin America, etc.

Their emergence and rebirth, as the essential factor in international relations, is undoubtedly connected with the "accepted into service" terroristic attacks as the most effective means of armed struggle.

And this is no by accident. In spite of the accepted in sociology method of conflict characteristics, basing on the subjects of conflict and its object a terrorist conflict is defined also by another important component: by a means of struggle used in it. Terrorist tactics determines not only and not so much the appearance of emerging social relations, but their content. It is this tactics that largely determines the allocation of a special kind of social conflict – terrorist conflict. The social phenomenon of terrorist methods of struggle is in the fact that they determine, also at the global level, the unusual asymmetrical type of social relations. Such methods (taking into account their insidiousness and cruelty) made comparable the capabilities of the opposing sides, which in reality are critically different in their economic potential. Therefore, the international nature of terrorist

tactics is manifested in the fact that it introduces the radical changes in certain views in society of the right of force, characteristics of power, domination, and other concepts defining the structure and content of social life in the world. At a certain moment in history these ideas about the possibilities of states and social groups, that are always predetermined by the level of their development and military power, overturned in the result of the "asymmetrical logics" of terroristic acts that are included in the realities of international life. Social relations in the world order gained a different character, which is determined by the triumph of awareness of the possibility to get even for the eternal humiliation, non-recognition of the mutual nature of historical assimilation of cultures of East and West, unjustified poverty of huge masses of people, etc. In social relations a new regulatory origin appears coming from the interaction of terrorist conflict. The demonstrative character of the risk of transforming of these regulative elements into the steady process disguising the shadow of the world anomie, confirms the productive function of the terrorist conflict that seems to signal the publics about this danger [2, p. 103].

Thus, an irregularity of the terrorist methods of struggle is caused by the ups and downs of international life. It originated from partisanship, which emerged and found its application in the result of wars between states, is predetermined by the conflict of political and economic interests of states, groups of states, by its essence, reflects the gap in military-economic potential of different countries, peoples, civilizations and is called to level these differences.

The international nature of terrorism is also shown by the fact that it acquired a natural for itself content and form of the global terrorist conflict, and that means the formation of consolidated target for radical changes in global arrangement.

Even if a terrorist conflict occurs only on the territory of a particular state, and involves the presence of rebel-partisan segment (Chechnya, Turkish Kurdistan, etc.), it still is a part of the global terrorist conflict. This means the stable international relations on the religious-cultural or ethno-

national basis, rendering of territorial asylum, strong material and financial support, involving volunteers, etc.

Social support for terrorist movements, groups and networks moved beyond the national state organization and shows the progress of solidarity of the "third world". Especially this concerns the international Islamic environment²².

On the other hand, the international characteristic of terrorism is also the fact that the natural anti-terrorist coalition of the economically developed states acquires a meaningful content. There the awareness of root causes and determinants of terrorism occurs. Just look at the recent decisions of the summits of the G8, G20 aimed at preventing from the impoverishment of the regions of the "third world", at the removal of drawbacks in the international economy, and at search for the corresponding mega-economic and megasocial projects.

Concluding the review of the factors and circumstances indicating at the international nature of terrorism, it should be noted that, in contrast to transnational crime only accompanying the internationalization of the economy, terrorism has arisen on the basis of international irregular means of partisan fighting, when the difference formed and became apparent in the levels of development of regions of the planet with the presence of cultural and civilizational context, and with the knowledge that any other way to overcome this difference is impossible.

In its turn, the criminological importance of rooting of the terrorist tactics in context of the guerrilla warfare makes fundamental revolutionary changes not only and not so much in the actual content of the liberation struggle. Bringing the powerful factor of asymmetry in armed conflict, such tactics radically changes the relation of forces on domestic, regional and global (inter-civilizational) levels. The content and structure of international relations, foreign policy, interstate and inter-civilizational dialogue change, since to the background the arguments move which in

²² See about this for example: Кардини, Ф. Европа и ислам: история непонимания / Ф. Кардини ; пер. с итал. Е. Смагиной, А. Карловой, А. Митрофанова. – СПб. : Александрия, 2007. – 332 с.

known proportions are based on military and economic influence, on the extent of financial operations (speculations) on the international stock markets, levels of technology, etc.

As for the counterinsurgency tactics, then taking into account the presence of important terroristic component in the guerilla actions (that is, in circumstances of terrorist irregularity), we should be careful about the adequate nature of the corresponding government actions, as it was practiced with respect of rebel and guerrilla forces (for example, in Vietnam by the Americans, by the Soviet troops in Afghanistan, etc. on).

The researcher of the phenomenon of economic criminality B. Svenson found out that almost any measure, being effective in the destruction of crime, has cumulative negative effects. That is why the system of influence on crime should be recognized as unacceptable not only in the case of the prevalence of negative results, but also in the absence of decisive advantage of positive ones [38, p. 115].

The negative consequences of the unconsidered use in anti-terrorist practice even of elements of those methods and tools which terrorists use may be very dangerous.

Taking into account the role and scope of today's terrorist struggle, which is determined by the parameters of the global terrorist conflict, it is a direct path to a terrorist war, in which both sides will practice the methods of terrorist acts as the primary method impact on the enemy. Is this way acceptable for the so-called "government" side of the conflict? Obviously it is not. However, the answer to this question in a broader criminological context should be found in the comparative analysis of the guerrilla and terrorism as conditions and components of the modern asymmetric warfare, which also includes the international dimension of scientific tools and methods.

The intrigue of the terrorist aspect of this question is in the fact that the affinity and compatibility of guerrilla and terrorism has at the same time a significant difference between these concepts and social phenomena which embody these concepts. Therefore, a certain interest to a researcher-criminologist is presented by such a boundary of social conditions, beyond

which the irregularity of partisanship, the degree of asymmetry, which it brings to the fight, does not correspond the severity of the political conflict and is not able any more to create the conditions of the comparability of means and opportunities of fight in which this struggle would generally make sense. Moreover, the question should be in the following way: Is the non-criminality of the world socio-economic organization able to cause the planetary asymmetric criminality of terrorism? Should this originating primary factor be evaluated as megacriminality?

The motivation of terrorists is based on the understanding of the current international situation as representing by its nature the global occupation of the "third world" countries in terms of neocolonialism. That is having received the terroristic content, the problem only globalized without experiencing significant substantive changes. So, we can assume that there are signs of occupation in its present geopolitical and geo-economic sense. There is no doubt also that at "terrorist party" of the conflict the legitimate and "respectable" motives are available (at least with respect to the realization of rights of billions of people in the world to be free from hunger, to have fair conditions for international trade, access to technology and other advantages of civilization). There is a growing support of the activities of terroristic groups by certain layers of population. In particular, the professor V. Luneev mentions that to the terrorist organizations not only individual institutions, political, nationalistic, religious and criminal organizations join, but sometimes even the entire nations or large parts of them which make up the social base of terrorism. Among the terrorists in Chechnya, for instance, the citizens of nearly 50 countries were present.

Highlighting the interrelated number of strategically important trends of terrorism in the world, V. Luneev, besides the broadening of the social base of terrorism, points to a related to it and equally important trend of terrorism transformation into the long-term factor of modern life [27, p. 147, 148].

Confirming the presence of the mentioned trends and their criminological significance in the context of this study they should be

perceived as a strong argument in favor of the establishment of an appropriate independent direction in criminology. One of the main counterarguments here is the temporary character of phenomenon of terrorism.

At the same time, international law demonstrates its intransigence in matters of legal assessment of terrorist action methods. In contrast to the legal admissibility (though not complete) of rebel-guerrilla action methods, even the very idea of legitimizing of terrorist attacks is unacceptable, the victims of which are assumed to be innocent people according to the conscious criminal intent. International law in its humanistically directed development, faced with the problem of regulation of fight against terrorism, comes to a standstill. Obviously it is deprived of its humanistic sequence and logics, having legal support of irregular means development and methods of warfare. The following legal documents by their contents indicate the international legal recognition of armed formations of rebel and guerrilla type: Art. 3 that is common to all Geneva Conventions from the 12th of August 1949, Art. 4 of Protocol I from the 8th of June 1977 concerning the protection of victims of international armed conflicts ("The legal status of the parties of the conflict"), Art. 1 of Protocol II from the 8th of June 1977 concerning the protection of victims of armed conflict of not an international character ("Main application sphere").

In particular, the last mentioned document recognizes the reality of armed conflict "between its (state-party's) armed forces and dissident armed forces or other organized armed groups which, being under responsible command, make such a control over a part of its territory that enables them to carry out the continuous and concerted military actions ..." [14, p. 730, 731].

Taking into account, that major part of terrorist groups, movements and networks also use the insurgent-guerrilla tactics, which quite effectively use the terrorist acts as the embodiment of the effectiveness of these groups. The effect of such international legal norm in general can spread over them. In particular, such a definition may cover, for example, the well-known terrorist organization "Hezbollah" (controls Lebanon

territory), " Hamas " (controls the Gaza Strip), armed groups of Kurdish Workers' Party, the Revolutionary Armed Forces of Colombia, Sendero Luminoso (Peru). Even the activities of groups directly surrounding the notorious Osama bin Laden and controlling a large area of the so-called "tribal zone", which was formed in a 150-kilometer stretch of the area on the Pakistani-Afghan border, may be qualified in accordance with the above mentioned regulations.

The way of an international legal counteraction of terrorist acts through the recognition of their criminality under international law as a means of warfare is hardly possible to implement. Because it is no doubt, that the different approaches to the other no less dangerous means of armed struggle will prevent from finding a constructive solution here. The example may be the bombing of civilians and civilian objects in Yugoslavia, Iraq, Afghanistan, etc.

The only way of non-recognizing the legitimacy of terrorist attacks in these conditions is the artificial separation from that political and socio-economic context, in which the "logics" of their application was formed. Unfortunately, this is the opportunity that still got implementation.

In the legal science this is called "indetermination". In fact, is the result of such manipulations law ceases to be law.

Having "separated" in such a way the terrorist attacks from terrorism (as a multifaceted criminal phenomenon), criminology at the same time "gave" to these criminal actions the secondary nature and artificially and arbitrarily extended these causes on terrorism in general. Meanwhile, the use of narcotics, arms trafficking and other similar "causes" of terrorism remain only favorable conditions and prerequisites.

As effective here is shown the international criminological approach.

Having studied this problem using the international legal analysis and scientific tools of sociological, economic, military, scientific, and similar nature, international criminology with full responsibility raises the question about the complex (social and political) nature of determination of the international crime of terrorism and about solving of the problem of

counteraction this crime through qualification of the combined *corpus delicti*.²³

At the same time the criminological result that can be used in the field of politics, is seen in the international criminological justification of developing idea of reconstruction of the world order, elimination of social and economic factors of international polarization generating protest, radicalism, extremism and crime in hazardous forms for international society.

At present it is obvious that international law does not cover with its regulatory influence the whole complex of elements forming the components of international crime of terrorism, focusing essentially on the terrorist acts.

Outside the influence of international law remains a powerful global mechanism of production of terrorism, which is based on inter-state relations, or more precisely, on the difference of the interests of states, groups of states, civilization associations. These conclusions formed the basis of the above mentioned definition of terrorism. That is why the solving of the problem of the adequate legal regulation of fighting terrorism is the forming of an international legal anti-terroristic mechanism. The basis of this mechanism is formed on the basis of the combined elements of this international crime with his qualifying construction paying attention to the issue of state responsibility. The concept of totality here unites both a state (states), which encroached or disregarded the principles and norms of international law regarding the right of nations and peoples to the political and economic independence, self-determination, territorial integrity, and a state (states), which provide financial or other material support to the forces that implement these ideas, as well as a state (states), which encourages and organizes the response counteraction using terrorist acts.

The specified united subject should include individuals who through commission of terrorist acts try to realize the right to independence, self-

²³ See: Антипенко, В. Ф. Субъект терроризма // Борьба с современным терроризмом. Международно-правовые подходы / В. Ф. Антипенко. – К.: Юнона-М, 2002. – С. 432-456.

determination, as well as those individuals who directly represent the will of states, aimed at violation of international obligations concerning ensuring of the right of states and peoples to independence and self-determination. That is, the united subject of terrorism as a crime under international law can be defined as confrontational subjective symbiosis of terroristic conflict. In this sense the subject of terrorism combines, for example, the subject of the act of violation of international trade rules and the subject of act of terrorism, the subject of the act of aggression and the subject of act of terrorism, etc.

It is obvious that international law can effectively counter terrorism only if subject of the crime equally includes a state and individuals which infringe on the right of the political and economic independence, self-determination of countries and peoples, as well as states and individuals counteract these attacks with terroristic means. At the same time it should be mentioned, that in order to qualify as a subject of terrorism a state, provided this state infringes on the right of any country or people for independence and self-determination, and individuals implementing these intentions do not necessarily use the terrorist methods of action to reach their aim. For such a legal qualification it is important that in the end the process of resolving a conflict became terroristic by character, and this may be connected with the use of terroristic actions by the party against which the above mentioned infringement has already been done. And a compulsory condition for inclusion a state in subject of terrorism is the cause-and-effect relationship between the fact of assault and counter terrorist activities, even if there is a gap in time or space.

The unusual design here should not be an obstacle to the realization of its compliance with the unusual nature of the international crime of terrorism. In international legal characteristics of the subject of terrorism we should focus on the high final worth of illegal or other actions of the parties resulting in serious damage as terrorism, which threatens the international peace and security. This main responsibility for the terrorist situation does define the union into one subject of the parties of confrontation. Thus, that what is called the causes and preconditions of

terrorism, not just should be criminalized, but must be criminalized under united elements of the international crime of terrorism. The very fact of terrorism should determine the involvement of the parties in the subject of this international crime and, therefore, the consequent responsibility.

It is important to avoid the political context in assessing the degree of guilt and responsibility of the parties forming the subject of terrorism.

Conceptually this legal mechanism is based on the assessment of terrorism as a social phenomenon, as a total product of the modern system of international relations, the world system of life, but not as the result of actions of only a small cluster of the world's extremists, their terrorist groups and their networks²⁴. The appealing to the international legal antiterroristic mechanisms in this paper is intended to help to ground the idea of creating a special in its methodology and content direction of criminology for the study of terrorism; to define the perspectives and ways of eliminating its existence in the international community life.

The introduced criminal legal description of terrorism demonstrates the international origin of this crime and its non-standard composition for criminological perception.

On a purely international origin of terrorism also the history of norms creating points in the sphere of legal regulations to counter it. An international agreed mechanism of regulating the activity concerning the prevention and suppressing of terrorism began to be formed in the 30s of the last century, although it was terrorism of another character and corresponded with its criminal content to larger extent to the criteria of political killings (e.g., Art. 443, 444 of the Criminal Code of Ukraine). And such terrorism got its recognition in international law in the result of the assassination of the King Alexander I of Yugoslavia and French foreign minister Louis Barthou.

The resolution of the Council of the League of Nations stated that all states have an obligation to not encourage or tolerate on its territory any

²⁴ See: Антипенко, В. Ф. Терроризм в существующей миросистеме. Геоэкономический поход / В. Ф. Антипенко // Теории мирового развития и антитеррористическое право. Логика сопрягаемости : монография. – К., 2007. – С. 43-83.

terrorist activities following the political purposes. For the fulfilment of this resolution in 1937 the International Convention on the Prevention and Suppression of Acts of Terrorism was developed, and it was signed by nearly half of states (including the USSR) constituting the international community at that time. Convention was not put into force, but played an important role in the recognition of the wrongfulness and danger of terrorism for the international peace and security.

The definition of terrorism at that time was not problematic, because with its role and intensity it was not so convincing expression of the condition of global confrontation with intercivilizational element, as in our time.

The content of the definition of terrorism was then a list of actions to be punished. They attributed attempt on the life of Heads of State and other government officials, acts of sabotage, acts that constitute a danger to many individuals, providing means of terror, production, transfer, deliberate use of false documents.

At that time the definition content of terrorism was made by the list of actions liable to punishment. The list included the encroachment on the life of heads of states and other state figures, sabotage, actions causing danger for many people, providing the means for terror, producing, transferring and conscious use of false documents.

The legal basis for cooperation among states in fighting crimes of terrorism currently include the package of the universal conventions focusing, as it was mentioned earlier, not on terrorism as the embodiment of the global conflict with certain counteracting parties and remedies. The conventions focus on terrorist acts (or acts of terrorism), and that fact substitutes the meaning and content of the anti-terroristic law and is important issue for criminology. This list includes the following documents: the Convention on Offenses and Certain Other Acts Committed on Board Aircrafts, 1963 (became operative in 1969); the Convention for the Suppression of Unlawful Seizure of Aircraft, 1970 (became operative in 1971); the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1971 (became operative in 1973); Protocol for the

Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1988 (became operative in 1989); the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents, 1973 (became operative in 1977); the International Convention against the Taking of Hostages, 1979 (became operative in 1983); the Convention on the Physical Protection of Nuclear Material, 1980 (became operative in 1987); the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988 (became operative in 1992), and Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 1988; the Convention on Marking of Plastic Explosives for the Purpose of Detection, 1991 (became operative in 1998); the International Convention for the Suppression of Terrorist Bombings, 1997 (became operative in 2001); the International Convention for the Suppression of the Financing of Terrorism, 1999 (entered into force in 2001); the International Convention for the Suppression of Acts of Nuclear Terrorism, 2005.

The United Nations Organization, through its structural bodies, especially after the establishment of the Counter-Terrorism Committee of the UNO in 2001, according to Security Council Resolution 1373, makes a lot of efforts and requires that states take an active rulemaking and enforcement measures for the implementation of international antiterrorism instruments.

And still the content of these universal tools, and even their titles (targeting at suppression of unlawful acts) clearly indicate that the real international essence of terrorism, which is expressed in the global confrontation of social megagroups appeared on diametrically opposite poles of the development of civilization, was left without proper attention of criminology. And this is not only surprising, but also quite natural: criminology operating on the methodology and criteria of ensuring of the researches of socially dangerous *actions* (even if they are prolonged), in a

proper way results international norms, which are focused on the suppression of such *acts (acts)*.

Criminology has not fulfilled its main function and has not put into the spotlight of the international anti-crime policy the valid international crime of terrorism with its complex aggregate subject and basic foundation of social conflict of global character.

But there is another important thing. In such circumstances, the criminological science itself on terrorism operates in a different plane than the one in which the determinants of this complex international crime are formed, because the scientific efforts are focused on the wrong subject. It goes, in fact, not about terrorism, but about the terrorist acts and terrorist activity on their organization and commitment. So, for the criminological scientific development of such a subject we may be completely satisfied with the methods and tools used to investigate ordinary criminal delinquency. In studying of crime the scientific tools and methods are primary regarding the subject, as they provide an opportunity to see its true (global) nature and place the task of studying, taking into account at least the new elements of this entity.

Taking into account such a global and extraordinary character of international crime of terrorism, its further study (and that is very important) should be organized at least in the specialized area of criminology – the international criminology of terrorism.

Is there a sufficient basis for such a statement? We must remember that any branching of science needs to be substantiated to reveal whether it brings an entirely new vision of the object. And for criminology as the science of the criminal legal cycle it is important to see in this separating (branching) the prospects of real solving of a problem of a particular ("nonstandard") area of crime and the impossibility of similar result in the existing "general" criminology. So, let us turn to the consideration of such grounds.

Terrorism has an international nature and international origin. Globalization only expanded the possibilities of terrorism and consolidated the goal basis, confirmed effectiveness of terrorist methods of action and,

what is most important, globalization in some way became an object of influence of terrorism. Although it should be recognized, that the scheme of correlations between these two phenomena is very complex.

Generated by social causes, terrorism has evolved into a self-contained and very influential social factor of the international level, as a derivative that became dominant and in many ways able to determine the content of international relations and to some extent is determining it now.

Thus, terrorism gradually entrusts any international regulatory function of countering globalization and its negative factors.

The social content of terrorism as a social phenomenon and, therefore, the international legal characteristics of it as a crime under international law indicate, firstly, that the social factors identified as the causes and conditions of terrorism are at the same time the elements of the total subject of international crime of terrorism. From this follows, secondly, the fact that the dynamics of development of terrorism and its legal qualification raise the question about the criminalization of these reasons and prerequisites, but not as separate components of crime (or international offenses), but still within the cumulative subject of terrorism. This presupposes their “terroristic features” and in a radical way changes the priorities in the system of the institute of responsibility.

This trend is useful, productive, because it is harmonized with the main international criminological postulate concerning the origin of terrorism. The latter defines an international crime as a social product of the international community in general and states the strengthening of its asymmetric development after World War II with the growth of evidence of harmful social and economic consequences of an erroneous development of world system, the moving away from the proclaimed by the UNO principles of its organization.

But within the immanent approach to the assessment of the already defined components of terrorism one can see the developing opposite and very dangerous trend for the decriminalization of terrorist action methods.

Taking into consideration the unprecedented scale of socio-economic polarization of the global world, when on the background of the

catastrophic impoverishment of regions of the "third world" the fabulous growth of wealth occurs of the representatives of the so-called "golden billion", especially of its richest segment. The majority not so actively shares the views of the minority about the absolute criminality of terrorist action methods. In conditions of the large-scale crisis of the capitalist system of world economy, which is intensified by negative factors of globalization, for billions of the world population terrorism is gradually legitimized, because it is seen as an effective (and perhaps the only) means to stop the development of disastrous factors of globalization.

The reality of decriminalization of terrorist action methods as the elements of terrorism is intensified from moral and psychological point of view by other internal tendency to changes in the content of the sacrificial character of acts of terrorism.

In the armed conflict for the reaching of the final political goal of transformation of the world system on the principles of social justice the civil population, which represent "its own" party (social, national, religious and cultural group), may be killed consciously, though, accidentally. Such an "internal" version of sacrifice in the armed conflict increasingly becomes common and points to a limitless arsenal of terrorist action methods. This absolute sacrifice originated and distributed mainly in opposition to the anti-terrorism measures used by government forces. It emphasizes the high level of terrorist conflict, is an application for a monopoly in the use of terrorist acts and points to the resolution for the recognition of their legitimacy on the basis of the individual right to control one's own life and of the group consolidation about this.

This tendency towards the social legitimization of terrorist action methods (so far it is in the beginning of this process) is also very dangerous with its technological potential, especially with rather real prospect of acquisition by terrorist groups and networks of nuclear weapons, and this prospect is supported by the approving public opinion of a particular society. This happens from the point of view of the sociology of international relations. But from the point of view of international law the

possibility to legitimize the terrorist irregularity is also not illusory, at least on the precedent of partisan irregularity.

The process of legitimization of guerrilla warfare in its organized forms (although there no developed criteria here) got the impulse for development in international law of armed conflict due to the Geneva Conventions of 1949 and their Additional Protocols I and II of 1977. That means, that these international instruments recognized in principle the possibility of war pursuing by non-state groupings, which at the same time recognize the legality of motives that guide those who struggle for the national self-determination, and their legal protection. However, these initiatives have not got further development in law, when it became clear that at least a partial legitimization of the terrorist acts as a last resort of irregular fighting can bring it out of the shores of any legal regulation. This "terrorist asymmetry" is reasonably believed as unpredictable basing on the results and hardly is a subject to political and criminal control.

The situation, when the logics of development of democratization of law becomes dangerous to society (as one more evidence of a systemic crisis of the modern world), is not, unfortunately, defined as a subject of research focus and estimates of criminology. This requires non-standard "asymmetric" methods of studying terrorism.

As the result of these misconceptions about terrorism, politics tries to neutralize the symptoms of these contradictions with the help of accusations of the aggression of global extremism (as if extremism appeared and is functioning on its own). And the law, respectively, tries to neutralize the symptoms of these contradictions through the absolutization of crime of terrorists and committed by them terrorist acts. This criminological dishonesty and not fully understood conservatism eventually distort the subject of international legal regulation in the fight against terrorism, drive problem inside contributing to the accumulation of the powerful conflict potential.

5.3. METHODS OF INTERNATIONAL CRIMINOLOGY OF TERRORISM AND ITS SUBJECT

International criminological researches of the causality and nature of terrorism have led to the conclusion of a legal character about the appearance of a particular collective subject in the basis of the components of this international crime. Such studies are based on the conflictological approach that predicts the availability of confronting parties in the terrorist conflict. The social component of the parties and their corresponding legal description are clarified by criminology, which also has its own specificity: a number of scientific disciplines, which were involved in the study (geopolitics, geo-economics, sociology of international relations, conflictology, culturology and military science), "worked" as a single (with a coordinating function of actually criminology) criminology mechanism with a clear anti-terrorist content. It follows that outside the counterterroristic content this criminological mechanism cannot take place, because it is formed through the interest of the mentioned international sciences in the specific subject, which is terrorism, and according to the capabilities of these sciences in the study of terrorism. However, taking into consideration the generally violent nature of terrorism, for criminology that area of knowledge is important, which is related to the penetration into the nature of violence.

Therefore it is logical that in the forefront of criminological study of terrorism the group of the research methods goes out, the scientific instruments of which are grounded mainly by the sphere of cognition of armed violence as the most common social action in the social development.

This does not mean the superiority of these methods over the other, less "violent" ones. The priority here is explained, most likely, by the concerns of a sequence of giving arguments and by the easiness of studying the proposed material.

From the point of view of external perception the attempts to look deeper into the essential characteristics of terrorism would seem not entirely acceptable, starting, for example, with the problems of humanitarian nature (social, economic, cultural, etc.). Although it should be emphasized that the way to understand the root causes of terrorism lies through the penetrating into the systemic, geo-political, social, economic and cultural mechanisms of society. But there is a considerable increase of effectiveness and level of learning of material coming from the usage of the methods corresponding to the indicated mechanisms, provided all this will be realized on the basis of awareness of the specificity of the violent mechanism in terror.

5.3.1. The methods showing the specificity of violence in terrorism

Conflictological method

Conflictological method is based on key provisions of the theory of conflict, particularly on those revealing its structural component and giving the key to the definition of terrorism as the embodiment of confrontation of large social groups of the civilizational scale as a result of distinction of their fundamental interests. This method, therefore, completely denies the wrong approach according to which terrorism is defined as the product of the activities of a small number of demonized extremist groupings that are separated from society and have different ideological, religious, ethnic or other origin.

The productivity in finding the origin of terrorism and its determination is achieved through the use of comparison of two major approaches inherent in modern conflictology: the theory of conflict and the theory of functionalism (sometimes referred to as "conflict" and "equilibrium" models).

Acute conditions of the terrorist conflict demonstratively pointed out the defects in the theories of functionalism, interpreting the conflict as abnormal, negative and destructive phenomenon. Using this approach the

society made the main problems more complicated, including those making up the essence of terrorism. This, in its turn, leads to the fundamental mistakes in the fight against terrorism, disorients the fight. Unfortunately, during the organization of such fight the assessments of danger of terrorism are spread showing this crime as actually the activity of anomalous groups qualified in terms "terrorist networks", "terrorist groups", etc. That is why the calls for the fight against terrorism do not bring any results, since the terrorist conflict as a whole is ignored as an important part of social life which needs structural changes. In law this mistake is transformed into the incorrect and incomplete definition of the subject of terrorism and, therefore, into the creation of legal rules and regulations providing for the regulation of struggle primarily with terrorist acts, their organizers and performers.

At the same time, in the framework of the theory of conflict on the determining theoretical level a positive function of conflict is stated as an important part of social life. This has a productive embodiment also in finding the solutions to the problem of terrorism.

Identified in the structure of terrorism political, social and economic processes constituting its essence not only pointed out the ambiguity of scientific and theoretical provisions concerning the conflict, wrong estimation of it as a disfunctional social phenomenon. The determining of their availability created a theoretical framework that made it obvious, and eliminated the reasons for anti-scientific, "made to order" speculations around the issue of the terrorist conflict, that is terrorism.

Outwardly terrorism as an international crime pretends at the same time for the implementation of the striving for reconstruction of the world system on the basis of actual equality. This means, thus, that terrorism acquires the features of a social force opposing to criminogenic factors of globalization, and draws attention to them as to a very dangerous anti-social world process. In this that element of its constructivity is seen, which is associated with the deterrent influence of the crisis development of events in the world. By itself, such a determining of the constructivity of that warning function of terrorism, which is included by any social conflict,

points to the effectiveness and originality as research tools of conflictological cognition of terrorism. Due to the using of conflictological scientific instruments, taking into account the structural component of terrorism, the idea of the social content, sources and causes of crime have significantly been enriched.

The constructive function is inherent to a certain extent also to ordinary criminal delinquency, but in terrorism it has a global, fatal character for the population of the world. In the conditions of the globalization of society terrorism with its extreme methods of action seems to give signals about the critical conditions, in which society is occurring. It is hard to deny the productivity of conflict in this. Terrorism, as a very acute extreme form of social conflict emerged in the result of critical development of the modern world system as a method of social signal about the trustworthiness of a disaster, since the other manifestations of social concern could not implement this function of global conflict. Because if a conflict cannot be resolved with the help of dominant structural component of social interaction, for example, through cooperation, according to the logics of its social action as such a component the radical means of resolution are involved (revolution, riot, war, terrorism, etc.). In case of terrorism there appears a threat of its transformation into a self-sufficient way of social interaction. Besides, the demonstrative character of catastrophic features of this threat is called to create the conditions for a reconciliation of the opposing parties in search of consensus. It goes about the fact that in the very mechanism of the global terrorist conflict there is the possibility for the general social interest to be formed and to dominate. The realities of nowadays, the increasing trend towards the interdependence of all elements of being not only within a single nation-state society, but also within the world society, lead to the understanding of the fact that in objectivity of the lack of balance of interests, which are considered by the subjects of the conflict as very important, still it is possible to find the common points of intersection of their interests. Obviously those include the preservation of the human race and the environment for its living, also the providing of the adequate

conditions for existence of civilizations, nations and social classes, taking into consideration the steady growth of the interdependence of all people. A significant role is played here also by the subjective overestimation by the elite and oligarchic capital of their achievements and aspirations. It originates from I. Kant's "moral sense" which is inherent, according to this scientist, to every person. The moral sense leads the rich people of this world to the realization that the values received by improper way are impure values, the values of the second grade.

As a specified version it completely distinguishes from the concept of rebirth of the human being that was followed by the famous English philosopher of the 20th century Arnold Toynbee and his younger Japanese colleague Daisaku Ikeda. During their dialogue the Japanese scientist expressed his belief of the necessity of the human revolution (especially in the hearts of people) with the aim to originate the individuals and society, which would be dominated by altruism. D. Ikeda emphasized: to prevent this revolution from transforming into totalitarianism, we must be assured that it is based on the philosophy and religion, which are strong enough to convince all the other people [15, p. 276, 277].

Putting the trustworthiness of such a world perspective on grounds of moral reality under the question, Toynbee still hoped for the impact of external negative factors. However, in particular, he supposed "that every person can rise to the level of holiness. It still seems unbelievable that the whole humanity is able to make a steep spiritual turn, which is necessary, despite of the widespread awareness of the fact that the price of the failure to respond to the moral challenge of the atomic age a self-destruction of our species may become" [15, p. 395].

These values are called for determining the need for an international legal mechanism able to provide the escalating of global terrorist conflict from antagonistic state to agonistic state, and thus to become the basis for its management and resolution.

Built on the definition of this structural feature of terrorism conflictological method is fundamental for criminology (and therefore, for the international anti-terrorism law) and enriches the understanding of the

boundaries and content of a particular sub-branch of criminology or, at least, the direction of this science.

In addition to providing the functionality of the terrorist conflict, in the scientific categories of conflictology the parameters of the global terrorist conflict are determined.

As in any social conflict, the content of the global terrorist conflict is a rather complex system of interrelated phenomena of international social and political life and activity of the parties of conflict.

The subjects of the global terrorist conflict are presented by the opposing parties. Here they appear as the planetary social groups with their different political, economic interests, who are opposed by illiberal development of the modern capitalist world system, and sharpened to a state of opposition in conditions of the global crisis, in which this system got.

Characteristics of the subjects are listed above (see 5.1). We should only note that the terrorist conflict arose as a result of the gradual loss by the party presenting the most developed part of society of the qualities of liberal constitutionalism in the development of capitalist society. Not being able in the conditions of the crisis of the world system to resolve the conflict in political and economic ways, this subject appeals to the power influence using the possibilities of government systems.

As it was mentioned earlier, the object of the global terrorist conflict is the world order, the systems of world order. Accordingly, the subject of the conflict, that is the indicator causing the confrontation of its subjects, includes the resources and control over these resources, territory, access to technology and welfare.

Moreover, the conflictological method provides the understanding of specifics of the terrorist conflict.

The thing is that in general the subject of the conflict is static from the viewpoints of both sides. But for the global terroristic conflict the characteristic feature is the different vision of the subject of conflict by the parties of this conflict.

Thus, the subject embodying economically developed party of the conflict seeks to transform this subject to the illegal means of struggle (terrorist action methods). The condition, in which terroristic acts as means of struggle are simultaneously interpreted also as subject of conflict, creating an unusual mechanism of criminality of terrorism, determines the inability of the solution of the problem of terroristic conflict by traditional methods (negotiations, political decisions, etc.). One of the parties considers as the terms of solving this problem the rejection of another party to use terroristic acts. But since the terrorist acts are the essential condition of the global terror conflict (make it possible in general), the solution of this impasse should be found in non-traditional approach of international law enforcement, distributed on both sides. It goes about an unusual enforcement mechanism of reaching consensus that is the agreement of the parties to be coerced by law.

Due to the conflictology method of international criminology of terrorism the possibility appears to study the depth and antagonism of the contradiction. The depth appears as a result of the crisis of the world system and determines the global scale of the terrorist conflict. The antagonistic nature of this conflict is stipulated by the use by one of the subjects of terrorist methods of action, and by intransigence by another one to the indicated claim of the opponent (to the resources, technology, welfare), which is covered up with the intransigence to the terrorist methods of struggle.

The next substantial element of the global terrorist conflict is the purposes of its subjects, that is, their vision of the subject matter of conflict after the conflict action.

For the party representing the developed world such a goal is to provide the conditions for continuous accumulation of capital, and, therefore, to maintain control over the resources, technologies and domination on the financial market, the elimination of terrorist methods, etc.

The subject of the conflict, which appeals to terrorist methods, aims at getting the equal access to resources and welfare of civilization and,

therefore, to the political and economic independence. These conflicting goals require different visions by the parties of object of the global terrorist conflict, that is of the world order, and do not give any reasons at this level to hope for consensus.

Basing on the provisions of the theory of conflict, the general interest here, as the path to the consensus in a global terrorist conflict, should be looked for around the problems of the increasing uncontrollability of international social and economic processes and connected with it increasing catastrophic features in means and methods of fighting during the conflict.

In the process of transition from reflection of social and political reality to the direct confrontational reality there compulsorily appears the problem of the correlation of the objectives and subjects of the conflict with the means and methods that are used. And this problem is crucial for the determining of nature and outcome of this activity.

As it was mentioned, it is a violent method that is dominant in the global terrorist conflict. And it is accompanied by the use of the means of fighting of terroristic acts which are phenomenal in their cruelty and asymmetric to the “allowed opportunities”.

Means and methods of the antagonistic subject constitute mainly a set of actions of neocolonial character (which may not create a violation of international law), which provide the control over the resources and obtaining excess profits. These include the sphere describing the unequal exchange: the unequal economic and financial transactions. There occurred the facts of aggression, annexation. Recently, the practice of extrajudicial executions, imprisonments, etc. has become widespread.

Conflictological method has opened the additional possibilities of stipulation of the international legal qualification of the crime of terrorism. This is achieved due to the availability of the global terrorist conflict for the legal impact, as it may be characterized in the international legal categories as terrorism, that is as a crime under international law.

Thus, in the subjects of global terroristic conflict it is easy to see the total subject of elements of terrorism, and in the object and subject of

conflict the analogical elements of elements of this international crime may be seen. The conscious interests, values and goals of the subjects of conflict are identified with the subjective side of elements of terrorism.

However, the global terrorist conflict and terrorism, being the concepts similar in their meanings, still differ from each other in the strictly scientific aspect.

The main qualifying characteristic feature of elements of terrorism is a complex cumulative subject of this international crime. At the same time, the identical characteristic feature in a global terrorist conflict is represented respectively by the availability of two opposing sides, by two subjects of the conflict. Within the qualifications of terrorism, they merge as the legal embodiment of the process of antagonistic interaction, which, actually, are formed by terrorism. It should be taken into account, though, also the appearance of perspectives of the formation of common for the parties planetary interest, which may be the basis of a consensus in the conflict. In other words, the cumulative subject of elements of terrorism as a legal category is perfectly harmonized with such a social (conflictological) category as the total public interest, which is the world order and security (survival) of humanity. From the point of view of social policy that category should be viewed as a starting point in the process of solving of a global terrorist conflict. In the format of a legal regulation of fighting terrorism the specified category forms the basis of an international legal anti-terroristic mechanism being able to provide regulatory action. And this action would block terrorism in all complex of its multi-dimensional nature, not being limited by the orientation of law to the suppression of only terrorist acts.

Thus, it is important that the awareness of structure the global terrorist conflict, especially its subject-component, gives the opportunity for adequate international legal assessment of the elements of terrorism, which found the corresponding qualification in law as elements of the crime of international terrorism.

The method of assessing of collective subject of the body of international crime of terrorism

The conflictual participation of states, nations and societies in the production of terrorist warfare and its development make the ground for the formation of a common planetary interest to the global consensus. These states, nations and societies represent different civilizations, with their polar socio-economic stratification, and what is more important they represent the general character of the total terroristic threat. The study of these conflict interactions, their detailing develops due to the related method to conflictological one, in some way derived from it – the international legal method of qualification of collective subject of the body of crime of terrorism.

On the base of the conflictological method of research of terrorism as a violent confrontation between certain parties the idea of the specific structure of the body of international crime of terrorism confirmed and finally formed and this idea is expressed, first of all, in the specifics of the body of the cumulative subject of the crime²⁵. The formula of the cumulative subject has become a key value for the identification of international legal characteristics of the crime of terrorism. Thus, the basic for the international criminology of terrorism conflictological method generates a derived research method of terrorism of the narrower international legal direction – the method of assessing the cumulative subject of the body of this offense.

The method of estimation of terrorism, based on the qualification of the cumulative subject of the body of its crime, is the main international legal method of the international criminology of terrorism. It gives the possibility of cognition of the juridical characteristics of crime and mechanism of international legal regulation of fighting it. This, in its turn, creates the objective basis for the formation of the international anti-terroristic law as the intersystem branch of international law.

²⁵ See: Антипенко, В. Ф. Совокупный субъект терроризма / В. Ф. Антипенко // Теории мирового развития и антитеррористическое право. Логика сопрягаемости : монография. – К., 2007. – С. 289-303.

Due to this international criminological method the following facts were ascertained:

1. The social content of terrorism, its body of crime (as signs of subjective and objective sides of action combined entity) contains criminogenic, including those from the point of view of transnational crime, negative factors of globalization producing the crisis of the world economy. These factors should be considered as the element of the body of crime regarding terrorism.

2. The indicated factors within economic and social theories of world development coincide with the causes of the systemic crisis of the capitalist nature of the world order.

On this basis the possibility of clarifying the phenomenon of terrorism appears, which involves the following. Covering these factors, terrorism as a social phenomenon at the same time fights them. That is why, at the first sight, it seems that terrorism fights the factors making up its own content. But this is not true, because the fight is immanent in nature and based on the principle of antagonistic interaction, which, in fact, determines the total content of the subject of terrorism. The main components of such a cumulative subject correspond, as it was mentioned, to two social megagroups, one of which represents a developed part of the international community, and the other – the regions of the "third world" with their protest. The fight between them objectively involves the terrorist means and methods of operation, on the background of the incomparability of the parties. This fight forms a global terrorist conflict, reasonably identified as terrorism.

It is important to note that the mentioned international legal qualificational structure of the international crime of terrorism, with its cumulative subjectivity in the center, acquired its scientific and legal characteristics and is logically built mainly due to the use of scientific tools inherent in a number of international sciences related to the law. This also gives reasons to talk about the specific criminological methods of cognition of terrorism.

On the basis of the structure of the cumulative object, taking into account that the structure is characterized by opposing interaction of its components, the conditions appear to their mutual criminalization under one body of the crime of terrorism.

This contributes to the formation of a common interest in overcoming terrorism and influencing on its determination. This also creates a situation of legal restraint (like nuclear deterrence) of terrorism. The growth of the influence of the factor of the international legal deterrence of terrorism through the structure of the cumulative subject of crime will be in parallel with the growth of technological capabilities of the armed struggle. This gives a perspective and effectiveness to this method in the scientific and theoretical space of criminological assessments of terrorism.

The method of paramilitary assessment of terrorism

The criminality of terrorism possesses a dual character. On the one hand, it is determined by the indisputable criminality of elements of the objective side of the body of crime, and these elements are realized in terrorist action methods. On the other hand, the criminality of terrorism is determined by the component, which should be criminalized or is supplementary for criminality, of the objective side. And this objective side is expressed through the determinants of crisis of the world system (or through criminogenic globalization).

For the study of the first component it is appropriate to use the possibilities of the military science. Since it is necessary to answer the question: what is, from the military point of view, the act of terrorism as the violent armed way of fighting? How should the armed struggle be regarded in general if it includes terrorist acts?

These and similar questions are not easy, they possess a geo-strategic, global importance, because they hurt the integrity of the basis of international law and, in particular, of the United Nations Charter.

It is known that in the doctrine the polemic discussions have been developing regarding the presence of the international legal basis for the engagement of the antiterrorist coalition in 2001 in Afghanistan.

The opponents of the using of institute of self-defense (Article 51 of the UN Charter) for the fighting the acts of terrorism are based on the fact that the institute of self-defense is *jus ad bellum* injured of the victim state. It is limited by the territory of state; the right to self-defence is gained by the victim state immediately after the armed attack and does not need the UNO sanctions. On this basis they note that the terrorist attack of September 11, 2001 was carried out by the extremist group "Al-Qaeda" without the use of military means, so the fact of an armed attack itself by any state is absent. The United States began military operations in a month after the commission of a terrorist act, which does not meet the purpose and essence of the institute of self-defense. The military operations were carried out by the USA in Afghanistan and were directed not only against the bases and camps of "Al-Qaeda", but also against the Taliban government which did not organize this terrorist act.

However, despite the legal sequence of interpretation, some uncertainty is seen in it considering the extraordinarity of the situation. The vulnerability of this approach is explained by the fact that, being based on the traditional statutory interpretation of the institute of self-defense, it does not include the actual practice of modern terrorism, the certain acts of which on the scale and severity are comparable to the armed attack. Still the role of the terrorist methods of operation in modern armed violence obviously increases.

Therefore, we can say that in international law the question about the concept and aspects of an armed attack remains open (this is recognized in the decision of International Court of Justice in the case of Nicaragua vs. United States). There is also the absence of the definition of armed attack in conventional sources. This issue is supposed to be governed by customary law. In particular, it goes about such aspects of this law, as the limiting of self-defence only with measures, which are proportional to the armed attack and necessary as a measure of response. The temporary measures are also presupposed for a military response.

It is obvious that it is impossible to avoid the use of military scientific approach in the study of the genesis of terrorism, its determination.

That is why there appears one more specific method of international criminology of terrorism based on the militarized evaluation of a criminal behavior of the subjects of delinquency. Of course, this does not mean a desire to form a simplified perception of terrorism as a form of armed conflict. This method involves the assessment of violent armed actions of the subjects of terrorist conflicts from the point of view of military science, revealing their elements of "military" origin.

The method of paramilitary assessment of terrorism also eloquently confirms the "claims" of international criminology of terrorism on the status of a separate direction in the system of sciences of the criminal cycle. Terrorism is in the process of changing of its several aspects, among which the most significant is its militarization. It takes place, on the one hand, through the mutual assimilation of terrorist and military methods of warfare²⁶. On the other hand, it is known that terrorism uses military action methods inherent to the insurgent-guerrilla tactics. The cumulative effect of this symbiosis is reflected in the fact that the terrorist attacks, based on the capabilities of rebel and guerrilla tradition, acquire the qualified apotheosis character. This to some degree materializes the terrorist struggle, giving it a sense of relativity with the traditional national liberation movements. But at the same time, it creates additional (significant) criminological opportunities for access to military-theoretical aspects of the study of terrorism and the organization of criminal law control of it. In particular, the "paramilitary" method of evaluating terrorism as a particular type of armed conflict constitutes grounds for the deterrent influence on terrorism in terms of international humanitarian law and the international law of armed conflicts.

The fact is that the modern terrorist tactics combines two, in fact, opposite trends.

On the one hand, the precise organization of terrorist groups is passing away, with their strict internal structural and functional organization, rather

²⁶ See: Антипенко, В. Ф. Войны, военные конфликты и терроризм как способы разрешения международно-политических противоречий / В. Ф. Антипенко // Актуальные проблемы политики : сб. ст. – О., 2000. – Вып. 9. – С. 285-293.

understandable system of planning and management of the terrorist attacks, certain (often illegal) localization, internal and external subordination links and appropriately established channels of material and financial support and expertise. In recent years, mainly for safety reasons, there is a so-called virtualization of terrorist organizations, their transformation into terrorist networks. The basis of this principle of action is the grouping of extremist forces, adequately prepared to participate in terrorist activity, around quite legitimate idea (the struggle for national self-determination and the establishment of an Islamic enclave, upholding of Islamic or other cultural and civilizational traditions, anti-secularism etc.). Not accidentally the name of the most powerful terrorist network "Al Qaeda" is translated as "foundation". For terrorist networks the characteristic features are situational training and carrying out of terrorist acts, high level of conspiracy and dynamism of armed personnel, as well as strongly adapted to modern international financial and banking system material and financial support for terrorist practices.

The preparation and improvement of the combat skills of terrorists in these conditions occurs in highly secret special camps, which are located in remote and weakly-controlled by governments regions of the world, such as, for example, "Tribal area" in a mountainous area on the border of Pakistan and Afghanistan, and other mountainous, forest and desert areas of Latin America, Asia and Africa.

The terrorist network especially actively use the armed conflicts in Iraq, Afghanistan, and other centers of conflict, through which thousands of gunmen passed and acquired practical skills to kill people.

On the other hand, as it was mentioned earlier, a significant factor in the escalation of terrorism is the convergence of military and terrorist forms and methods. Certain activity takes the process of pairing of terroristic and insurgency and guerrilla or subversive and search tactics of action which is a characteristic feature of the military special forces.

The threat of terrorism in the world today is in expanding its social base, when the certain segments of population, and often the entire peoples, nations, in spite of obvious moral barriers, consider a terrorist tactics as

appropriate for the fight. Organizing in transnational networks for terrorist acts around the world, the extremists at the same time use now any opportunities for military intervention in the internal affairs of a state, organically penetrating into a military confrontation on an irregular basis.

That is why it is not surprising that many countries in the world legally secure, and the experts at the research level raise questions about the role, objectives and forms of the usage of the armed forces of the army in the fight against terrorism. At the same time the importance of methods of actions of counter-insurgency and counter-guerrilla increases, and the army must be forced to gain proficiency in it.

The grounds for paramilitary terrorism assessments gain credibility also because of the trends that characterize the "government" response to the spread of terrorism.

Special problem is the terrorist-sabotage groups, the basis of sabotage practice of which is specialized usage of accented "apotheosis" terrorist acts against (and with opportunities) guerrilla warfare. In these conditions, the effectiveness of both components (terrorist and insurgent-guerrilla) of terroristic units increases on the principle of cumulative effect²⁷.

So, it is obvious that in a certain way militarized mechanism of international crime of terrorism is connected to a very specific criminal behavior. The group of the specific techniques and methods of study of its nature forms a special criminological method associated with the militarization of crime, or rather, the first aspect of this method.

The second its aspect is related to the specifics of prevention of this type of crime and of countering it.

In spite of different attitude of specialists, politicians and scientists to the problem of terrorism, its origin, the differences in the estimates of the nature and definition of the concept of crime, there are no significant differences regarding the necessity to organize the armed stand-off to this criminal phenomenon. The armed stand-off is not considered by the author

²⁷ See about it in detail: Антипенко, В. Ф. Взаємна асиміляція терористичних і військових методів боротьби / В. Ф. Антипенко // Оптимізація антитерористичної системи держави в умовах міжнародної і регіональної інтеграції. – К., 2008. – С. 64-95.

as the main means of eliminating terrorism. It is in preventive-deterrent its meaning, as well as in providing the conditions for the solution of socio-economic and political-legal complex of problems for the restructuring of the international community. The obvious thing is that the nature of the organization of such armed resistance has its specificity, because needs to use force, the method of preparing of which and its tactics of use are substantially different from ordinary law enforcement and military forces²⁸.

Since the anti-terrorism special forces should cover by their active opposition both terroristic and subversive aspect of criminal activities of terrorist and subversive groups (they gave them their name) under international law. The legal regulation of the preparing and usage of such forces has its own characteristics, which also are the subject of research of a "specialized" criminology.

Thus, the peculiarity of criminological method of paramilitary assessment of terrorism is in its versatile possibility to prevent the mimicry of terrorism, its imaginary fetish embodiment in another form of guerrilla fight, legitimized by law, and to strengthen its position in the field of criminal legal control of this complex crime.

Method of terroristic asymmetry

Taking into account the military aspect in the genesis of terrorism and the mechanism of its implementation, the reference to possibilities of military science resulted in the development of the theory of a terroristic asymmetry. This theory is the key to the cognition of the special status of terrorism, considering the diversity of types and forms of international criminality. Within this theory another specific method appeared, which is inherent only to international criminology of terrorism – it is the method of terroristic asymmetry. Specifying the method of the paramilitary assessment of terrorism in the part considering the phenomenon of the irregularity of confrontation, this method displays the misunderstanding of

²⁸ See about it in detail: Антипенко, В. Ф. Умови й можливості використання сил спеціальних операцій у боротьбі з тероризмом / В. Ф. Антипенко // Оптимізація антитерористичної системи держави в умовах міжнародної і регіональної інтеграції. – К., 2008. – С. 95-145.

the balancing function of asymmetric relations of force, its constructive role as a permanent factor of social interactions.

In other words, the cognition of terrorism in the aspect of self-producing by society of equalizing means of armed struggle (and this is the phenomenon of terrorism) becomes an objective reality due to criminological method of terroristic asymmetry. The method is based on the developed by the author theory of the terroristic asymmetry revealing the content of the asymmetry of terrorist attack²⁹. As the principal means of struggle, terroristic acts give it extreme irregularity (that is they largely negate the military, economic and technological superiority of the enemy), and absolute hostility and totality, exposing the irreversible mechanisms of systemic crisis of the existing world system with its growing economic and social asymmetries.

By their practical invulnerability and growing influence terrorist acts put under question the economic and social viability of the world system.

Thus, the confirmation of the reality of the terrorist methods of asymmetry as a scientific method of criminology is its capabilities in the study of criminality in globalization, negative values which simultaneously constitute a determination of terrorism.

The scientific basis of the terrorist asymmetry is a complex of characteristics of terrorism forming the concept of a global terrorist conflict and corresponding mechanism of international legal regulation of fighting terrorism, and also studied on this basis absolute criteria of irregularity of terrorist tactics. These criteria, taking into consideration their international dimension and the social context, deny the possibility of solving the problem of terrorism in the traditional way: by adjusting the policy approaches and international legal norms. They point to the need for the fundamental restructuring of the both spheres of organization of the universe.

²⁹ See about this in detail: Антипенко, В. Ф. Теорія терористичної асиметрії / В. Ф. Антипенко // Оптимізація антитерористичної системи держави в умовах міжнародної і регіональної інтеграції. – К., 2008. – С. 23-64.

The main method of the theory is the comparative analysis of the key provisions of the partisan theory, proposed by the famous German sociologist C. Schmitt, on the background of the socio-economic polarity and other factors of asymmetric global world.

The effectiveness of guerrilla tactics is identified with irregular action which forms asymmetry in the means and methods of struggle, that is, breaks a certain monopoly of a particular state (groups of states, civilization) to certain types of weapons, tactics and strategy of their application.

The asymmetry of guerrilla has certain limits, which are determined by the chosen subject of attack coinciding with the object of struggle, or at least, representing it. This object (and subject of action) is for partisan forces the armed forces of the opposing party, whether it is a living force, material resources or objects of military infrastructure.

The asymmetry of a terrorist activity continued to develop and acquired, in fact, completely uncontrolled forms and scales, as any restrictions and conventions as for the subject of direct infringement are excluded here. Mainly it is represented by the unprotected randomly selected civilians and the corresponding physical objects. The absolute asymmetry of terroristic activity is confirmed by not significant results of measures to protect potential targets of terroristic attacks (embassies, industrial objects, government agencies, certain individuals, etc.). In contrast, there appeared a peculiar kind of sacrifice of terrorists (along with suicide bombers), when consciously, though on a random basis, the representatives (civilians) of their party (social, ethnic, religious and cultural groups) are killed to achieve the ultimate political goal of national liberation, self-determination, etc.

This mechanism includes the extremely danger (absolute) of the terrorist asymmetry.

At the same time, the motivation for a military opposition to the other party, that is to the object of struggle increases, and this happens mainly due to the striking performance of asymmetric means of fighting – a terrorist act in the diversity of its monstrous options.

Taking this into account, the solving of the problem of legitimacy of "asymmetric asymmetry" of terrorism is, to our mind, in a different plane – in the eliminating of the terroristic object itself and, therefore, the opposing sides. Legitimization should deal here not with the means irregular fighting, but with its object, as in the conditions of the absolute asymmetry they change places with each other. Terrorism, as an influential regulatory factor in international life, acquires the characteristics of its independent subject (that is the object of influence), going out the boundaries of the modern world. Conversely, the legitimation of fallacy (and possibly non-viability) of the modern world-system makes it possible to eliminate terrorism as its product and its component. Because terrorism causes quite tangible and perceived catastrophic features³⁰.

So, because of its asymmetric nature and, therefore, practical invulnerability, and increasing influence, terrorist acts put under question the economic and social viability of the world order.

The system of theory provisions and assessments of theory of the terroristic asymmetry includes:

- geo-strategic impact of terrorist attacks as a means of forming conditions of comparability of the warring parties beyond the criteria of military-economic potential of each of them;
- absolute irregularity of actions, which is based on sacrifice and unique solidarity of subject of the direct attacks by terrorists in the environment of related social strata;
- determination of the absolute enemy, which is the system of world order based on market capitalism and states, institutions and organizations embodying this system;
- absolute hostility, embodied in the aspiration to mutual absolute criminalization of parties of terrorist conflict;
- inability of any legal legitimization of terrorist methods of struggle and appearing on this basis inconsistency of international legal provisions,

³⁰ See: Антипенко, В. Ф. Теорія терористичної асиметрії / В. Ф. Антипенко // Оптимізація антитерористичної системи держав в умовах міжнародної і регіональної інтеграції. – К., 2008. – С. 34, 41.

which, demonstrating the focus on overcoming of criminal phenomenon of "terrorism", mistakenly identify in this characteristic a terrorist act as (asymmetric) means of warfare;

- extremely high mobility, implemented through the activities of terrorist networks, while maintaining the capacity of guerrilla tactics in favorable for itself limits and forms;

- high social involvement, which principally excludes the possibility of using the potential of terrorist attacks by the so-called third force;

- hypertelluric basis of actions, taking into account the planetary nature of the "zone of responsibility" identified by terrorists for themselves;

- integration with the problems of crisis of the existing world order resulting in global terrorist conflict.

Thus, the determination of the structure and mechanisms of emergence and escalation of terrorist struggle, basing on the disclosure of the phenomenon of absolute irregularity of terrorist acts as means of this fight, as well as creating a logical system of assessment of elements in their correlative connection, constitute the theory of terrorist asymmetry, which, in turn, is the basis for forming of the specific criminological method inherent only to the research of terrorism.

Confirmation of the reality of the method of terroristic asymmetry as a method of criminology is its possibilities in the study of criminality of globalization the negative elements of which simultaneously form the determination of terrorism.

Due to this method criminology gives a non-standard understanding of the global role of terrorism in the development of world order. The ideology of terrorist asymmetry extends much further than this may be predicted by the targets of return of principal parity of the parties regarding the use of the political outcome of the struggle that is inherent in the "classical" international war of the symmetric type. Taking into account the principles of absolute hostility and absolute criminalization of the enemy, which it is based on, the asymmetry of terrorism presents the ultimatum to catastrophegenic features of the further "antidevelopment" of world system. This means that the results of escalation of terroristic asymmetry should be

defined beyond the criteria of admissibility or inadmissibility, that is as inevitable changes in the existing world system, because of its frailty.

Thus, the method of the terrorist asymmetry opens the way to the evaluation of equal opportunities of opposing sides in terrorism, and from it – the basis for the formation of a common interest in a peaceful solution of social megaconflict. In other words, this exclusive and inherent only to international criminology method lays the foundation of understanding of mechanism of political deterrence of escalation of terrorism and, therefore, the constituents of the global crisis, which it reflects.

The social dimension of military irregularity, and military criteria of its influence on the content of terrorism and its escalation appear as non-traditional scientific tools with the help of which terrorist asymmetry method provides a new social and political vision, and what is more important, the international legal characteristics of terrorism.

The method of absolute hostility and absolute criminalization of the parties of terroristic conflict

Other exclusive features of international crime of terrorism may also form a method for a separate area of criminality.

Thus, in the process of action of conflictological research method of terrorism the conditions arise for the use of number of specific factors reflecting the phenomenon of this international crime as scientific instruments for its deep cognition. Such, for example, are the factors of absolute hostility and mutual absolute criminalization of opposing in terrorist conflict parties.

The risk of destruction of traditional society, the threat of disappearance (on the basis of poverty and social degradation) of entire human stratum gave rise to extreme forms of absolute hostility that came out of the class struggle, "enriched" with the problems of resources, access to technology, benefits of civilization and other critical (mostly for the "third world") tendencies of the global economy, as well as inter-civilizational contradictions.

The dual format of displaying of absolute hostility is associated with fighting of the determined earlier parties in terroristic conflict and a similar structure of the cumulative subject of the body of international crime of terrorism. Absolute hostility originating from the economically developed world is stipulated mainly by a legal unacceptability for it of terrorist methods. This unacceptability is in the fact that a party representing the world, cannot afford to act in the same way as terrorists. Although there are some such examples, they are doomed to counterproductivity. But what is the most important, even being drawn into a war of terror, the party once again loses a factor of superiority of technology and military and economic power. This creates the basis for absolutization of the enemy and hostility originating from the developed countries, as well as their desire for absolute criminalization of terrorist action methods. More dangerous is the fact that this absolutization gradually becomes the owner of the international anti-terrorism law.

This approach has much in common with certain provisions of the Declaration on Measures to Eliminate International Terrorism, which defines the undoubtful condemnation of all both criminal and unjustifiable acts, methods and practices of terrorism wherever and whomever they have been performed (p. 1). In paragraph 3 of the Declaration it is stated that criminal acts intended or accounted to provoke terrorism among the general public, a group of persons or particular persons for political purposes cannot be justified in any circumstances, whatever are the considerations of a political, philosophical, ideological and racial, ethnic, religious or any other nature that may be invoked to justify them [69, p. 6].

Without doubting the humanitarian pathos of these and similar provisions, their legal dubiousness should still be taken into account. In general, this approach opens the possibility to ignore institute of motivation and targeting in the legal qualification of crime. By the way, this institute is well developed in the national law of most states of the world, in particular Art. 258 "Terrorist Act" of the Criminal Code of Ukraine cannot be applied without taking into account the motives of the crime.

In international criminal law, this leads to indeterminism, which for obvious reasons is very dangerous with its consequences to law enforcement area. In the area of research, the non-determinism denies any sense of criminological science.

Facing the similar opposite absolute hostility and intransigence in an increasingly polarized world society it creates an atmosphere of planetary danger within the global terrorist conflict. But along with this, the absolute hostility contains also the constructive element of inducement to form a common "planetary" interest in finding a consensus in the universe.

As it was mentioned earlier, the terrorist attacks make a revolution in the relationship and effectiveness of existing instruments of war, destroy the criteria of armed force, on which considerably modern world is based. Therefore, the criminal terroristic actions are absolutized not only in the legal space. The party represented by the group of developed countries is forced to use the ways of moral destruction of the enemy, because absolutizing criminal terroristic actions without acknowledging the illegality of their own actions under international law, it acts not according to the general principles of international law.

Theorists argue that in similar situations the forces representing the opposing side should announce the opponent as in the whole criminal and inhuman total lack of value. Otherwise they will look not as people, but as criminals and monsters [50, p. 142].

On the other hand, assessing the modern escalation of terrorism, there are reasons to believe that terrorist groups do not deny that the major part of manifestations of globalization possess the criminal features. This groups are inspired by the available international legal recognition of the motives and goals regarding the conditions of the national liberation struggle, which they try to determine (or are determining) with their criminal actions. In addition to physical activities, they also try to destroy in moral sense capitalism which loses its liberal content and is considered as the foundation of the modern world with its global crisis processes. The most painful consequences of these processes are felt, first of all, to the "third world".

Such a mutual absolutization of enemy and hostility itself and also mutual desire for absolute criminalization of the enemy actions are able to unleash a spiral of confrontation to a catastrophic outcome. It is dangerous accounting the evidence of a strong social support of both sides of this asymmetric war.

But at the same time, the absolutization of hostility and criminality of enemy possesses some positive aspects (and this forms another criminological phenomenon of terrorism). These advantages should be connected with formation of condition through such an absolutization for the creation of a common "planetary" interest that predetermines the reality of megasocial consensus, which was discussed above. The threat of a catastrophic gap, which appeared as a result of this absolutization (especially if taking into account the reality of usage of weapons of mass destruction by two parties), is the important presupposition and strong argument for consensus.

As grounds for the formation of independent method of criminological research of terrorism one should consider here that terroristic acts, as a last resort of irregular fight, create the conditions to break the blockade of dependance on any government and give the new geopolitical feature to struggle. This is clearly seen in comparison with the internal contents of guerrilla warfare. Since the days of the Spanish guerrilla (1808 – 1813) and Russian partisans of Denis Davydov, when a guerrilla fighter was forced to act with the permit of the king or the czar, guerrilla movement may be completely reprogrammed by a certain "third force" from the morally motivated movement for freedom and independence to the means to fight which a state or ideological forces use for their own purposes. In modern conditions, the guerrilla movement is constantly faced with the danger of ideological or geopolitical instrumentalization undertaken by the interested "third force". This is natural, because the guerrillas need to be supported by legitimacy, even if it concerns the implementation of their irregular

methods of struggle, "playing the role of the irregular cannon fodder in conflicts possessing the world-historical importance"³¹.

In this terrorism this aspect of activity has the opposite indication. Due to the specific method of warfare, which are acts of terrorism, it does not need any organizational or material support from the legitimate side (especially from the one that does not have a direct motivation to a particular confrontation) and, in many cases, opposes it.

In this connection it is necessary to take a closer look at the events of February 2011, taken place in Tunisia, Egypt, Yemen, Jordan and Algeria. They should not be underestimated. In our opinion, their geopolitical importance as the beginning of the social revolution of the world is largely due to the reality of the potential of "Muslim Brotherhood", "Hamas", "Hezbollah" and of other terrorist organizations operating in the region. More specifically, the independence of these groups from the usual in such cases manipulations of the same notorious third force.

We should also remember the bitter experience of the USA, which in the early 80s of the last century used the Afghan "mujahideen" and their allies among Islamist radicals and rulers of some countries of the Middle East with the purpose to defeat the military contingent of the Soviet Union, in order to assess the validity of this conclusion. Coming from the state of partisanship, "mujahideen" are currently the main force of the world's terrorist groups and networks, the aim of struggle of which is directed mainly against the "great satan", which for the Islamic radicals is the USA.

The method of assessing of terrorism as a self-sufficient phenomenon

From whatever points of view terrorism has not been assessed, the basis for studying of its criminological methods consists in the fact that, thanks to hypereffectiveness and availability of terroristic acts, terrorism is

³¹ See about it in detail: Антипенко, В. Ф. Умови і можливості використання сил спеціальних операцій у боротьбі з тероризмом / В. Ф. Антипенко // Оптимізація антитерористичної системи в умовах міжнародної і регіональної інтеграції. – К., 2008. – С. 217.

able to function as a self-sufficient influential phenomenon of international life.

Accordingly in the process of research as an independent international criminological method the method of assessment of terrorism as a self-sufficient social and legal criminal phenomenon. It gives international criminology of terrorism the qualities allowing in a proper way to perceive it as an independent branch of criminology. In contrast to transnational criminology, which is a part of world society and parasitizes on its flawed development, terrorism, originated from complicated vicissitudes of international life, from socio-economic factors of globalization, has become a self-sufficient international force that claims for the regulatory function concerning the world society.

Terrorism directly influences and pretends to determine the relations of states and other actors in international affairs. From the criminal problem, result of international social and economic relations, it turns into a controller (the cause), which forces at this stage of globalization the revision of this relationship.

This leads to quality internal changes in national societies and states. Because their role and importance in international relations under the influence of terroristic factors is now determined by some other criteria. This also forms the basis for the formation of the above-mentioned concept of "terroristic containment".

The considered criminological method belongs to a group of methods inherent only to international criminology of terrorism, primarily because it provides an opportunity to warn the government forces and their law enforcement and military system from the traditional approach in the application of conventional anticriminal methods and measures in relation to terrorist activities. Here they are not always effective. In particular, the way of adequate tightening of legal provisions including national legislation seems futile. The most important preventive function of the method consists in the fact that, introducing criminological science and showing its capabilities, it helps to realize its another danger - the

establishment and application of adequate with terrorists actions, that is extra-legal ones.

François Bugnion, the famous explorer of capabilities of humanitarian law in the fight against terrorism, states: "... the leaders of terroristic organizations account that the shock, caused by actions performed by them, forces the state, against which these actions are directed, to destroy with its own "hands" the foundations upon which it is built". This author also indicates that the so-called "theory of discriminatory application of jus in bello leads to the fact that both sides of the armed struggle will use this right: each of them considers its enemy as aggressor and refers at it in order to free itself from compliance with the norms of law of war. That is the way of returning to barbarism" [6, p. 135].

Especially it concerns the existing practice of extrajudicial detentions and executions of suspected in terroristic activities persons.

The method of assessing of counterproductivity of the specific category of anti-terroristic measures

Using the method discussed above in combination with other methods of criminology, it is easy to conclude that the only way to solve the problem of combating terrorism - is the constructing of world-system and, in particular, world economy on generally accepted moral and legal (fair) principles.

Because the independence of terrorism, combined with high level of impact, needs another criminological treatment of it as a crime of geopolitical nature and dimension. But for our study as important is the fact that terrorism and the fight against it generate another criminogenity – the one, which in the process of fight against terrorism gradually forms itself in such a "sensitive" area of international life as the sphere of respect of human rights and freedoms.

The danger of appearing of another specific type of international crime is a reason to arm criminology with a special method. This specific type of international crime initially is justified by the fight against terrorism and, in particular, by non-standard of this crime, by "inconvenience" for the

current international and domestic law. This method should include with its criminological attention the complex of factors of negative "side" effect of counter-terroristic activity.

In general, it appeared in a result of danger of side harm that accompanies the various measures in fight against crime. The famous American statesman and theorist of criminology R. Clark, basing on his significant experience of fighting crime, came to the conclusion that the crime problem cannot be solved through the use of violence. Moreover, this violence can compete with public danger of crime (and in some cases crime may exceed it). The escalation of severe events puts a society in front of the lack of a police force and makes it apply the services of the army [23, p. 70-74].

The same fact was ascertained by the professor B. Swenson in the process of study of the phenomenon of economic crime [38].

The increased likelihood of violations of the fundamental human rights and freedoms in the fight against terrorism constitutes a particular danger, taking into account the global scale of the threat. Therefore the high qualification of research of the problem of the derivative criminogenity and harm caused by anti-terroristic (primarily international legal) actions is required. And this is impossible without appropriate methodological support.

There is no sense in building during criminological research of terrorism any proportional relationships between the intensity and scope of used measures and possible negative consequences. Firstly, the level of terroristic threats is poorly differentiated with a "mass" of terrorist acts and their quantity. For example, two explosions in the Moscow metro in 2010, or on January 24, 2011 at the airport "Domodedovo" were enough to wake the whole world up and to initiate the widespread measures of security. Secondly, the criminological "tradition" here is violated by the factor of the broad social support of terroristic struggle among certain layers of population and peoples. Such support is virtually absent according to common criminality.

This requires the updating of the methodology of study of the indicated criminological problem, providing it with scientific capabilities not only of criminal legal character, but also of international humanitarian nature, referring to the socio-political categories of international dimension and geopolitical criteria of evaluations, etc. To the indicated demands the discussed method of assessment of possible counterproductivity of international legal measures corresponds.

An urgent need for strengthening the capacity of legal regulation of combating terrorism is more often satisfied with doubtful ways. There is a substitution of development and improvement of law (based on a real criminological assessment of concept and essence of terrorism) through making its norms more severe mainly through concessions in sensitive to it area of regulation of international law of human rights. In international law (unfortunately, outside the attention of criminology) a paradoxical conflictogenic by its nature situation is produced when through the formation of image of a generally dangerous enemy – terrorism and through limiting of the rights and freedoms of a wide range of people the preferences of security of elite are provided. And against this elite (in its various interpretations), in fact, the target of a terrorist protest is directed. The international ruling "class" reluctantly goes to any social concessions, including internationally important economic ones. The world economic system still remains untouched. Indeed, it is easier to introduce the immigrational restrictions or to sanction massive wiretapping than to waive (as it is foreseen in the principles and norms of international law) the resources or technologies for the benefit of a certain underdeveloped country. Or, for example, limiting the insatiable appetite for growth of rates of return, to create for such a state favorable conditions for economic development.

In the result of this flawed approach, anti-terroristic law became to develop, absolutizing the criminality of terroristic acts. The national legislation, first of all of the developed countries, was covered with the wave of an uncompromising lawmaking. At the same time as polemic remains the positioning of such a law-making and of institutional activity

as a response reaction, as the social polarization (as the root cause of crime) has reached, as indicated above, the shocking characteristics. The "perspectives" of increasing of limitations of human rights and freedoms also are doubtful, because they may cause more conflicts and the emergence of legal collapse. If to consider the domestic law as a whole, it may seem that states compete with each other for legislative approval of the various restrictions and abuses³².

Especially dangerous is the tendency to extralegal solving of counter-terroristic problems related to the field of international justice. As the symbol of unprecedented challenge to the system of international law the functioning since 2003 of a prison at the American military base at Guantanamo became, where the terrorists all around the world are imprisoned without the judicial process. A number of such secret prisons are found out in European countries.

Recently, in the influential circles the expediency of using of the corresponding (that is terroristic) tactics of actions in relation to the terroristic groupings has become the subject of their discussion.

All this causes alarm as a prerequisite to a terroristic war (meaning the mutual usage by the parties of terroristic action methods), which obviously lead to the defeat of the international community in general.

Thus, there appears a separate sphere of criminogenity of terrorism, which is connected with a mistaken criminological assessment of its essence.

Mobilizing in the result of this its efforts in doubtful direction of regulation of counteraction only terroristic activities (terroristic attacks), international law unintentionally creates the conditions for the improvement and invulnerability of terroristic activities. Denying by its content the possibility of objective juridical evaluation of the full range of terror-formative elements, it excites the compensatory energy of extralegal actions, producing thus a new criminogenity. The realization of this

³² See about it in detail: Антипенко, В. Ф. Антитерористичний потенціал права збройних конфліктів / В. Ф. Антипенко // Оптимізація антитерористичної системи держави в умовах міжнародної і регіональної інтеграції. – К., 2008. – С. 341-379.

mechanism is the basis of this particular method of criminology coming from the assumption of possibility of side effects in the fight against terrorism. Functioning in a deductive mode, this method is intended to reveal the causes of disorientation of international anti-terroristic law, its "side" criminogenity and counter-productivity not only in the application of certain rules, but in view of its objective existence in general.

Indicating the need for the use of a number of specific methods inherent in international criminology of terrorism, we should mention that not all of the traditional methods of criminology research fit into the mechanism of this direction of criminological science, which once again confirms its specificity.

This, first of all, is connected with some instruments of the statistic method of criminology. It is difficult to get with their help (in the traditional sense) the information that objectively reflects the status and trends of development of terrorism. In the best case, such information may very roughly show the status and intensity of committing of terrorist acts. As, for example, the presence of a certain number of terrorist groups, the increase in their numbers is not an indicator of growth of terrorist threats. Just remember the situation when a dozen of terrorists representing several terrorist groups, on September 11, 2001 literally turned the world over in order to put under the question the effectiveness of the statistical method of criminology in relation to terrorism.

In addition, as V. Luneev mentions, the terroristic crimes, committed by organized criminal groups, are taken into account only after they are detected and directed to trial. But the scientist notes that of 10 terroristic acts 8-9 remain unsolved [27, p. 134, 135].

Even if not to take into account the fact that these statistics is far from estimates of terrorism as a crime under international law, which embodies the conflict between the two social megagroups, it still is not able to show objectively the status and trends also in the sphere of indirect terroristic activities.

So we have to use the public data and the ones coming directly from the detained terrorists. There is a general upward trend in terrorism-related

crimes committed in non-obvious circumstances, since such actions actually remain unpunished.

It worth mention once again, that this statistical picture is connected only with the "executive" component of terrorism. In addition, the majority of actions it reflects in the national legislations are qualified with other bodies of crimes than terrorism. That is why the parameters of complete statistical analyses of terrorism are more complex and need to be developed as part of the specialized areas of criminology.

Their essence is seen, first of all, in the dynamics of socio-economic issues and in their interdependence with the dynamics of the growth of militancy and asymmetry of the actually terrorist activity.

5.3.2. General scientific methods of terrorism research

Conflictological method, metod of paramilitary assessment of terrorism and derivative from these methods methods of terroristic asymmetry, cumulative subject and others are marked in the theory of scientific cognition in two ways. Firstly, they helped to understand the essence of terrorism, its genesis, to find the key to determining of the formula of the international legal qualification of the body of offense. Secondly, these methods, regardless of their connection to the specific recognized sciences, should still be percieved as specific ones since the scientific tools of these methods operate in a specific field of public relations. This area is defined by the presence of armed violence in different forms of its manifestation.

To a lesser extent the possibilities of these methods can be used to study the determination of terrorism, in particular its causality. Multiple aspects of terrorism, the diversity of its manifestations predict the involvement for this wide range of fields of science, capable of dealing with the political, social and economic spheres of international life. It goes about international life, because terrorism is, clearly, an international phenomenon, its causality is formed in the sphere of international life,

range of interests and relationships determining the formation of the international community as a complete self-regulating social universe.

Therefore the orchestra of criminological means of research of terrorism cannot be effective without a number of methods, the international character and industrial direction of which are determined by the content of science, on the basis of which they were formed, with the need for knowledge of terrorism. First of all, it is geopolitical, geo-economic, international, sociological and cultural studies methods.

Geopolitical method of research of terrorism

This method is closely related to a conflictological method. It is based on international and global opportunities of seeing by geopolitics as a science, academic and practical discipline the prevailing in the international environment conflict-generating phenomena, processes and factors, their nature, targeting and motivation.

As it was mentioned, from the political, social and economic point of view terrorism should be considered as an international in nature phenomenon [3, p. 28, 29]. One of major advantages of the international approach in the evaluation of terrorism is stipulated by the fact that the modern international relations are globalized (from the French “global” meaning “all over the world”) in the fields of politics, economy, production, commerce, finance, culture, information, and communications. Globalization, like any other process of political integration, is characterized by intensification of the struggle for power, resources, territory [32, p. 46, 47].

Nations and groups which did not receive any benefits from the manifestations of this trend, tend to see in regionalism and separatism (and thus in terrorism) the real means of protection and preservation of their own identity, culture and social justice [37, p. 1, 2].

Therefore, it becomes clear that the concepts, categories and criteria of geopolitics will assist to a full understanding of that section of characteristics of terrorism, its determination and role in the dynamics of

social processes, which best can be represented exactly in the light of geopolitical processes.

In general, the subject of study of geopolitics is the global or strategic directions, the major laws and principles of life, of functioning and evolution of the modern global society [10, p. 313, 314].

Terrorism, in its turn, is more firmly established among the factors determining the nature of the basic principles of life of the world community.

The usefulness of the study of terrorism using the capabilities of geopolitics is also explained by the fact that the vectors of the first (as a social violent phenomenon) and second (as system of sciences with the ideological basis) ones intersect on a key value, which is called "power". Since the essence of the policy is the possession of power or the desire to such a possession [29, p. 5, 6]. In terrorism the political motivation and targeting of activity are also caused by struggle for power in its various interpretations.

As terrorism is seen as a phenomenon of an international nature underlying in the basis of global terroristic conflict and simultaneously serving as a means of resolving this conflict, it may be referred to the means of implementation of geopolitics. For example, the supporters of the approach of geopolitical expansion of the West (D. Tucker, R. Steel, E. Lake) see in terrorism and its accompanying processes the fact, which if not assisting, then, at least, justifying and giving the reasons for the concept of global hegemony [66, p. 70; 64, p. 3].

There is no doubt that the events of September 11, 2001 in the United States served, among other things, as a strong base factor for further geopolitical hegemonisation of America, which means the transition of terrorism in a new phase in its total current escalation. And we are talking about American-centric globalism.

Thus, more and more countries and people are drawn into geopolitical processes related to the distribution and redistribution of resources, territories and spheres of influence and contributed to the escalation of terrorism, leaving on the background the ideals and ideological concepts.

In this case, to the front of struggle the peoples and states are put, whose political, economic, resource, and the civilizational earthiness is the most obvious (the countries of the so-called "third world", nations fighting for self-determination). Having in most cases the weak military and economic potential, these states and nations are increasingly turning to terrorism as a means to fight making their possibilities comparable with the possibilities of dominions, in the struggle with which they come. Moreover, the trend of ethnic fragmentation acquires dangerous forms.

Achieving of unipolar dominance or of dominance of group of states in a globalized world requires an interest in ethnic, regional, religious conflicts by the presence of which the need for a strong equitable world leadership is proved.

That is, in the current geopolitical situation the trend determined to an increase of the role of terrorism as an effective instrument for the implementation of geostrategic decisions and goals.

The relationship of geopolitics and terrorism is also promoted with similarity of their methodologies. Although these are split-level concepts, their methodologies are quite close and effective if obeying the approach in assessment of these concepts as a whole and as a part. The methodology of geopolitics to some extent covers the methodology of terrorism giving it content and helping with necessary completeness to carry out criminological research of criminal phenomenon. This follows from the fact that the methodology of geopolitics is mainly based on the comparison of processes and phenomena of a state level with the macro-regional and global levels. Therefore, terrorism under certain conditions can be attributed to the constituents of geopolitics in a role of a guide of global processes as one of the factors determining its content.

The presence of feedback, due to which the geopolitics in the dynamics of its formation and development affects the condition of terrorism and its activity, underscores the depth and globality of correlation. Therefore, terrorism, which has an international basis, sponging on practical geopolitics and benefiting from geostrategic decisions and actions may to some extent be an indicator of such decisions.

The content of the "geopolitical" interpretation of terrorism should be sought through the presentation of the question: why does not the peaceful sense of integration increase significantly in the course of history in the geopolitics? Why terrorism, on the contrary, appears to be her companion?

In this regard, one should take into account the origins of geopolitics, its "common-educational" characteristics.

The founders of classical geopolitics include F. Ratzel (Germany), R. Kjellen (Sweden), A. Mahan, H. Mackinder, J. Feygriv (UK), I. Bowman and N. Spykman (USA).

Despite the differences in approaches, their geopolitical concepts came from the traditional concepts of international relations as such, which are based on three main components: territory, sovereignty, security of states, that is on factors of international politics.

The essence of geopolitics was seen in highlighting the spatial, territorial factor. At first it was understood in terms of direct control (military and political) of the respective territories. Thus geopolitics helped to create a wide field of violence in international relations, because here the choice of forms and methods of influence is determined by specific political causes and conditions.

Such offensive and domineering geopolitical setting, with the strengthening tendency towards economic polarization of states, causes catastrophogenic danger of wars and, provided the presence of weapons of mass destruction and the expansion of communication links, also helps to increase the role of terrorism in international relations. This is also indicated by the bases of formation of geopolitics as a system of scientific opinion, making up the guide to the implementation of political objectives and decisions at the global level.

Thus, the vector of expansion in the "statutory provisions" of Ratzel is directed towards the weaker states are lagging behind in the development of civilization [43, p. 76, 85, 86].

Kjellen, describing states as biological creatures, or living beings, gives them "primarily self-preservation instinct, the tendency to increase, the desire for power". Building draconian principles of relations between

states beyond the concepts of justice, the concept of Kjellen certainly contributed to trampling of the interests of small countries and peoples, not excluding their disappearance [43, p. 91, 95].

The essence of conception of A. Mahan is to determine the advantages of marine or oceanic powers. Mahan predicted planetary destiny for America, its emergence as a leading maritime power directly affecting the fate of the world. Focus and methods of the American activities and its satellites in this sense have made a significant impact on the emergence and development of terrorism in the world [18, p. 307].

H. Mackinder laid in the Anglo-Saxon geopolitics, that in a half-century became the geopolitics of America and of the North Atlantic Treaty, the basic trend: in any way prevent from the possibility of creating a Eurasian bloc, from creating a strategic alliance between Russia and Germany, from geopolitical strengthening of Eurasia and its expansion. The sustainable russophobia of the West in the 20th century has both ideological and the geopolitical character [43, p. 122].

The utilitarian approach of Spykman manifests primarily in his clear desire to determine the most effective geopolitical formula by which the USA can quickly achieve the world domination [63, p. 89].

Only the position of Vidal de la Blache is different with its altruism. He points out that the spatial geopolitics of Western Europe must be inextricably linked to democracy and liberalism [43, p. 107].

Thus, it is obvious that the total vector of geopolitics of Atlanticism, largely determining the current balance of power and the political and legal framework in the world, was formed with the focus on the rationale for the hegemony of individual states and nations, the annexation of territories, annexation, aggression, etc. It is no accident that the development of geopolitical thought in the 20s of the 20th century by the works of the German scholar Karl Haushofer (1866 – 1946) was transformed, in fact, into one of the most important components of the Nazi ideology; and geopolitics has not yet got rid of the labels of "misanthropic", "cannibalistic" etc. science. Developing views of Ratzel, Kjellen, Mackinder and Mahan, Haushofer gave the geopolitics such an appearance,

in which it became the part of the negative doctrine of the Third Reich [59, p. 105].

And still, despite of the tendentiousness of the process of its formation, geopolitics could be more effectively used for the needs of criminology, investigating the international crime. Especially productive are the capabilities of geopolitics in investigating the nature of the international armed conflict, the disruption of the process of economic development of newly created states in the regions of the "third world", etc.

However, if we talk about the insignificant use of opportunities of geopolitics for the purposes of criminology, we should bear in mind the dual nature of the negative processes that is formed around this.

On the one hand, the geopolitics as the science of global power was formed and continues to form, taking into account the interests of the most powerful states of this world. On the other hand, for the study of international crimes, their genesis and determination of criminology there is clearly the lack of geopolitical "understanding" of the world processes, even in the light of the existing perception of current engaged geopolitics.

As to the first aspect of the problem of inefficiency of "geopolitical" criminology, at first the attention should be paid to the definition of geopolitics, which is provided by one of the leading Russian experts in this area A. Dugin. Geopolitics, according to the scientist, is the viewpoint of the world authorities, the science about the power and for the authorities. It is a discipline of political elites (both current and alternative), and all its history persuasively proves that it was developed solely by people actively involved in the management of states and nations, or who had been preparing for this role [17, p. 13].

The general course of geopolitics, despite some strengthening of "anthropological" component, as before, is mainly determined by violence and injustice. The new interpretations of geopolitical theories are neoatlantism, neomondialism, neoeuroasialism, which are in the current circumstances the closest to the practice of the international order. These theories defend their own macro-interests, discarding the abstract devotion to "humanitarian" norms and economic doctrines, giving by this the violent

content of international and domestic processes. This trend is the increasing by globalization of economic and social life. The regulatory functions of terrorism are increasing in the geopolitics. They are primarily characterized by the fact that under the influence of various tragic and violent actions, as well as opening opportunities contained in terrorism, a tendency appeared to increase the number of the so-called geo-political entities. Development of technology in the world has reached a level that creates a categorical necessity to extend the scope of actions of the social systems of self-regulation (which are national states now) from the national to the supranational level. The general awareness of the danger of mutual destruction in a global terrorist conflict should encourage the strongest to seek compromises with the relatively weak and even to recognize the right to "veto" for them on the key geostrategic issues. And in this context the required effect on the ordering of geopolitical ambitions, on which terrorism parasitizes, should be made by classic anti-terrorism law.

The second aspect of the discussed problem is also specific. It is the lack of use by criminology of the possibilities of politics as for an international crime. Exploring the meaning of geopolitical concepts as well as a variety of geopolitical balance and combinations international criminology, no doubt, receives significant additional opportunities of determination of international crimes. But (taking into account the validity of the first aspect of the problem) still criminology faces the need to study the criminogenity of geopolitics itself.

The effectiveness of criminology, its impact on the international rule-making here depends, in its turn, on a harmonized support of the international law. Basing on the achievements, in particular, of geopolitics, international criminology should reveal new challenges and threats, establishing a need to review the international law and reform the institutions of international security.

Geo-economic method of studying terrorism

The importance of understanding of the geo-economic processes for assessment of causality of international crimes and, in particular, of terrorism is difficult to overestimate.

The order, which is approved in the world, is increasingly manifests itself as an economic order (*Pax Oeconomica*). Economy is increasingly manifests itself not only as a way to manage, but also as the dominant system of governance. It is in this phase of development of the world community with which the escalation of terrorism and other global threats are associated. So it would be logical to find answers to the question regarding the phenomenon of terrorism, its genesis and determination referring to "geo-economic" criminology. In this sense and goals the geo-economic opportunities of criminology are hardly used. It is felt if to look at the ineffectiveness of norms of international anti-terroristic law, their incoherence with the content (primarily economic) of terrorism, with the mechanism of formation and functioning of this international crime. For criminology in this field it is important to determine the corresponding legal formula of terrorism and thus to ensure the legal influence on the content of economic development, eliminating in it the socio-economic components of determination of international crime.

On the other hand, we are talking about using the features of geo-economics. The constructive alternative to the international legal mechanism of regulating of fight against terrorism must be interfaced with the results of the latest geo-economic developments. Since the geo-economics experts seem as a promising direction of social analysis. It absorbs the latest advances of globalistics, economic geography, cultural studies, social modeling, also of geopolitics, contemporary social and political philosophy.

Geo-economics, as the object of study of the corresponding discipline, is identified, as usual, with the global economy, but it is not right. This field of science has a slightly different perspective on the global economic reality. Consideration in the light of the specific business activities of any civilized areas and their components, specialization of these areas, finding

by them of the original niche in the international division of labor, and of course, their economic and sometimes very conflicting, interaction [12, p. 7].

Considering the previous features of terrorism as a criminal phenomenon, based on the conflict of socio-economic and political interests in the international environment, the role of geo-economics in the investigation of this crime may appear critical, it is destined for the solution of this phenomenon. The content of a unique interdisciplinary of geo-economics is, in fact, criminological, bringing together the efforts and capabilities of such important for criminology sciences as international economics, geopolitics, sociology, conflict, etc.

The combining of these disciplines of global scale under the auspices of investigation of determination of terrorism, firstly, gives the international content to the criminology itself. Secondly, such an association forms productive scientific instruments for studying terrorism as a crime under international law. And thirdly, it provides the geo-economic approach with unique criminological qualities and possibilities of cognition of the true nature of terrorism, to which criminology, unfortunately, only has approached.

The assessment of the global economy gives reasons to ascertain not only the fact that on the background of (the so-called) geo-economic processes the environment for the functioning and spread of terrorism is formed. But also the fact that terrorism can mutate until its transforms into a condition for the existence of this international environment.

In conditions of Pax Oeconomicana the fight for territory and resources acquires the new forms. From the conquering of new economic opportunities for receiving profits and excess profits nobody refuses, but in the uncontrolled pursuit for capital accumulation the advantage here is increasingly given to the acts disguised as economic activity possessing the aggressive character.

What are those able to do who do not have the economic resources and technology in enough scale to provide their life with such means? They

have either to give up and hope for a favorable economic scenario, or resist using the ways in which terrorism is increasingly finding its application.

Then there doubts appear of immorality of motivation of protest movements that use terroristic methods of struggle. Because, in fact, their protest is addressed to the global economy, steadily "producing" the degradation of the countries and peoples of the "third world".

The specified protest potential, and more precisely, its asymmetric (terroristic) type, is enhanced by virtualization and criminalization of the global economy.

The essence of the virtual economy is in the fact that capital gradually reduces its manufacturing component, transforming into quasi gold of financial and information flows. The impasse nature of this neofinancial economy is seen in the fact that the goals of social development, which should dominate, fade into the background.

When we talk about the criminalization of the modern economic system, we are talking about the phenomenon of destructive quasi economy, which is approved in the international economic life. It operates in parallel with the scope of the legal economy by criminal in their nature rules. Its phenomenon is, above all, in the fact that having hundreds of billions of dollars, this economy, in fact, makes losses, a kind of negative value. This type of human activity is manifested in the production of costs, causing harm to the environment, technosphere, but most importantly to the basics of human morality, which have always been the foundation for principles of social interaction in the community and economic progress.

Taking into account these assessments, the international criminological vision of geo-economic determinants of terrorism is enriched with the cognition of the fact that in its growing importance quasiaeconomic and pseudoeconomic global processes get out of control of even the most powerful forces in the world. Such a "riding a tiger" began to scare the riders themselves, and that becomes the ground for the consolidation of the opposing forces in the terrorist conflict.

Terror forming characteristics of global economic mechanism can be easily seen in the possibility of artificial organization and further use of

crisis situations, threats to civilized economy with the aim to increase control over the dynamics of global processes, the massive changes of ownership and sustainability of the whole production architecture of geo-economic space. In other words, the success of this strategy, largely naturalized through the functioning of terrorism, creates the conditions for a permanent external control of a wide variety of economic arrays, and eventually of the whole social environment. Note, however, that terrorism is “served” to the public in a false packaging, the inscription on which symbolizes the terrorist acts originating from the artificially demonized and isolated from society terrorist groups and networks. In fact, lettering should specify the global terrorist conflict, in all socio-economic completeness supplying its bases.

Thus, we can argue about the availability of criminogenicity of terroristic character (terrorogenicity) in the situation existing in the global socio-economic environment. The potential of protest of the appeared outside this environment masses, which is expressed mainly through terrorist acts, is directed ultimately against criminal, semi-criminal, dubious schemes and actions, which contradict morality and justice and reflect the content of the global economy.

The well-developed set of arguments (possibly forming the basis for a coherent social theory) becomes obvious. It indicates that the negative consequences and manifestations of the global economy, including vector of quasi economy, aim and hit in the economically underdeveloped regions of the world. Thanks to their existence, and to a large extent in these regions, this antieconomy finds the most favourable conditions for the functioning and implementation. From this environment, as it is used to believe, the terrorist ways of fighting originate in the international social interaction. Although it is true only partially, this is the way of perceiving terrorism on the global level. Terrorism, though, as we see, is a sign of the whole defected system of social relations, born by the global economy.

Thus, we can conclude that we are dealing with a peculiar phenomenon of the export of terrorism, when creating it, the global system of the world economy projects this phenomenon to the perception by the

international community to "ghetto of the third world", trying to imagine the latter as a deviant environment, zone of global risks, etc.

But in this case there appears a legitimate question. Is the eliminating from the international life of terrorism, performing the role of the "social lightning rod", advantageous for the minority, benefitting from globalization? The more so, that the direct victims of terrorist attacks exist mainly in these areas (Iraq, Afghanistan, Pakistan, Lebanon, the Palestinian Authority, and so on).

In the case of the disappearance of terrorism and other global threats of that level from the world process (imagine such a conditional option) the problems brought up by the global economy in society will appear in full growth and together finally push the world to disaster. The imaginary anomaly disappears of actually logically caused by the global economy threats, including terroristic threat. Behind the curtain of terrorist acts, which only symbolize the threat, for the entire historical period the main threat lies. It is a threat coming from the very nature of capitalistic system parting with its liberal shell. This world system went into a deep crisis, but continues to claim the fetish image of good of the global economy.

Despite the fact that the development part of society makes great efforts to protect itself from the terrorist threat, builds powerful military-political, legal, organizational and economic redoubts on the path of terrorism to its main goal – the current world order, it continues its destructive action. At this point the factor of absence of control of catastrophic (for everybody) in their results socio-economic processes is increasingly acting. The elite is trying to find the least painful options for themselves to get out of this situation. One of these variants is the attempt to show terrorism (also with the help of existing international anti-terroristic law) in the appearance of only terroristic acts, as an abnormal offspring, coming from lumpenized environment of economically underdeveloped countries. But such a distorted view of terrorism that is also, unfortunately, recognized by the UNO and in the environment of the so-called high society, makes the fight with it ineffective.

That is why for the purposes of providing of neutralizing of terrorism criminology aims to delete from its social and legal characteristics the veil of the simplified determinism and to expose in all its perversity and inhumanity its "social body", powered by a monster of the global economy. This would also serve as a basis for the formation of a renewed system of norms of international anti-terroristic law, which could aimingly destroy the most important sites and structures of terroristic mechanism in the structure of the global economy.

We may agree that such thoughts do not quite match the reality and not quite adequate to the realities of contemporary international life. But the hope for realizing the idea of a complete overhaul of the international anti-terroristic law, its adoption by a rather controversial international community still exists. It is given by the fact that the movement of the global economy occurs with the simultaneous and obvious decreasing of the ability of the world's elite to control it.

Besides, the elite itself is in a crisis, expressed in the loss of it of reputation and quality of the mind and conscience of society. A society has almost stopped to consider elite as a supporter of its interests.

The modern degradation of elite has, above all, the economic ground. Experts believe that this process began in the 70s of the 20th century, when a financial business of the United States began to focus on the "bottom part of the market" that is, on providing services to the lower classes, where, in fact, "a lot of money circulates". In this situation the "club" approach has lost its appeal, from "high" finance priorities shifted to mass-lending.

But the opening of access to most sectors of the American economy for outsiders resulted in reduction of significance of the elite class, holding in its hands all the public institutions. The essence of such transformation of Western society "can be defined as the decline of the authority of government. Even more appropriate to speak of "attack" on it" [19, p. 217-218]. "National" elite, which on this wave replaced the "aristocratic" elite little cares of the needs of a broad society. And this leads to the disorder of power, protest and conflict in society.

Thus, international criminology of terrorism, exploring the economic processes, provides an understanding of the fact that prevention of terrorism is connected with the solution of economic and legal issues at the global level. There is the need for a certain type of consolidation: it is based on the recognition of the imperative nature of action of the international anti-terroristic law outside the arguments of unavoidable oppression of financial and economic interests of the elite strata of society.

From scientific and methodological point of view of criminology is important to note that the actual idea of the geo-economic factors of the origin of terrorism, with the help of which the international anti-terroristic law is built, criminology cannot form outside of the context of the genesis of social conflict, its functionality. And this is a confirmation of systematic character of methodological support of international criminology of terrorism, of effectiveness of specific methods of this direction of criminological science in their correlation.

The method of studying terrorism based on the sociology of international relations

It is hard to overestimate the opportunities of the sociology of international relations concerning the studying of the causes of terrorism as well as the geo-economics.

It should be noted that in a situation of global crisis, when there is a re-identification of terrorism as an object of study, which is part of the crisis, its sign, there is a fairly obvious disappointment in the theories of international relations and the growth of interest to their analysis in the terms and by methods of social science [16, p. 30].

Many scientists of the world level think (R. Aron, J. Galtung, M. Merle, N. Elias, B. Badie, M.K. Smuts, R. Keohane, J. Nye, and others) that the sociology of international relations is free from unilateral theoretical preferences and therefore opens up a more fruitful way to critical overcome of the rivalry of existing theories and at the same time allows to save and use the accumulated in their framework and time-tested knowledge [49, p. 31].

The content of the categories of social science are presented by the Russian sociologists V.I. Dobrenkov and F.A. Znanetsky as social activities, social relations, social characters, social groups, which either way will show themselves in the application in such area of public relations, as the sphere of international life [1, p. 60-75].

The specified sections of the general sociology in the most relevant way fit into the theory of international relations [52; 24, p. 9-11; 21, p. 45].

According to the beliefs of the scientist Jean-Pierre Derrienic, the sociology of international relations can only be the sociology of action [55, p. 15-19]. It follows that it cannot remain aside of the process of studying of such of social actions of the international politics as armed conflict and terrorism.

The need for the theory of social groups in the science of international relations from the point of view of the study of international interactions is fully substantiated by J. Galtung [57, p. 284-293]. Research of the scientist gives reason to believe in the relationship between sociological science and international relations, which, in fact, created the sociology of international relations as a sub-discipline.

Terrorism as a catastrophic component of violence in international life, in many ways defined the specificity of the sociology of international relations, consisting not only of the problematics and content, but also of the approach to the study of a complex reality. And this reality with the appearance of terrorism in international life, in every sense of the word, consists of international relations. On the other hand, terrorism to some extent was intensified due to the developments of the international social science. Because the "proper" science largely contradicts with the reality of international life, pushing the most radical part of society to social action, which would involve the solution of these contradictions.

The main factor that determines the preferential consideration of terrorism as from the perspective of sociology of international relations, as from the "inside" of these relationships, is in the fact that the main object of social science in general are the contradictions and conflicts in society at all levels of their manifestations. Moreover, the major part of the researches

(T. Schelling, M. Deutsch, A. Rapoport, and others) as the substance of international conflicts in the study of the variety of international events or results of interaction of subjects, which is observed in the modern world.

Therefore, it becomes clear that evaluation of terrorism without using the possibilities of international social science means to doom the study, at least, for the inferior results. In the worst case, there is a risk to come to false conclusions resting against the unilateral assessment of terrorism as a general crime, generation of marginal part of society. And there is a risk to build the corresponding conventional mechanism, seeing in the international legal rule-making only its external manifestations, that is, acts of terrorism as such. Well-known western sociologists M. Finnemore [47, p. 111, 112], J. Groom [13, p. 239], and others pay attention to this.

The growing international significance of conflicts promotes expansion of the scope of acute and uncompromising means of fight, which is, at the same time, comparable for the conflicting parties, and they are the acts of terrorism. On the other hand, acts of terrorism, growing into the political configuration of conflict that reflects the goals, objectives, capabilities and tactics of the opposing sides, transform terrorism into an international phenomenon, attributable to the number of global threats. This, no doubt, draws attention to the conflict. But more important is the fact that terrorism acquires the characteristics of the substance of international relations, which, in its dangerous moving largely determines the condition of international social environment [36, p. 42].

The density of the international social processes, which increases under the direct influence of terrorism, not excluding the effectiveness of formal and informal negotiation procedures, entails the need for clear and strict construction of international law on the example of domestic legislation that in many civilized countries very successfully copes with the dangerous criminal offenses, which in different periods of history constituted a threat to their national security (armed robbery, corruption, and so on).

As an independent objective category terrorism materializes, firstly, in the existence of two opposing sides that form the core of the terrorist

conflict, with their opposing goals. Secondly, both sides have an impressive social support on the international level. Thirdly, terrorism involves various forces, means and methods of fighting of parties. On the one hand, it is generally radicalized, well organized military structures and networks with the applicable acts of terrorism by them. And on the other hand, a state with its special forces, army, police, and etc. uses legitimate tactics. And fourthly, the terrorist mechanisms are activated by the management positions of various levels – from tactical to strategic, and possibly up to geostrategic ones [60; 33, p. 58-60; 34, p. 229-232].

The growing role of this phenomenon in the world processes is explained by such complicated, multi-dimensional characteristics of terrorism, its dynamism and mobility of expressions, deep penetration into all disputes in international life.

Taking into account such a complex structure of terrorism, its global influence, as the task of criminology one may consider the cognition of the criminal mechanism of this social phenomenon and the indication on the optimal counter-terroristic legal model able to cover with its regulatory influence all the components making up this construction. And the social science in the international sphere is called on the basis of the state-centric approach to ensure the sighting of such action. For this study it is important, because the realisation of any approaches and theories, from the standpoint of which the international processes are evaluated considering their movement away from the state-centric model (or rather, recognizing it selectively on the basis of double standards), significantly increases the field of conflict and terrorism in international relations [45, p. 203; 58, p. 121, 192].

Using the possibilities of the sociology of international relations criminology should fully explore the question: in whose interests the seemingly contradictory process develops, when on the level of large nations and states in favor of tribal separatism and extremism achievements of the present are destroyed? Consider that, on the one hand, the creation of quasi-states is initiated, unsuited to modern international life, and, on the

other hand, their failure is emphasized (which is predictable and deliberate).

The famous Russian sociologist A.S. Panarin raises the question: why do the USA encourage the ethnic sovereignties in all non-Western space?

Does not it contradict the so-called law of abstraction and uniformity, which leads us to the totalitarian power of new type? In practice it turns out that there is no contradiction. The split of former large spaces is the form of the familiar process of privatization of government-ownership and the universalization of the relationships of purchase and sale. The formation on place of a single large sovereign state of many ethnic sovereignties means the marketing of that which earlier was not trade or sold - national interests [33, p. 14, 15].

Criminal aspect of this socio-political problem for criminology is in the danger to world peace associated with reality of escalation of terrorism on the background of infinite reaction of ethnic disintegration. The very first experience of the former Yugoslavia, Chechnya, South Ossetia, Abkhazia, Eritrea, East Timor showed that, without having a serious political influence, economic and military potential, on the one hand, and with multiple opponents, the contenders for the territory, internal national and social groups of another focus - on the other hand, the new formations are actively drawn into armed violence, manifested in terrorist forms [56, p. 101; 61, p. 14].

For criminology providing the scope of international crime other international sociological schemes are considered as a scientific interest. These schemes deny the importance of social values based on the unity of the territory (they form a source of collective cultural memory), and the values of the regulatory system that guides a group of individual behaviour.

Susan Strange, R. Mensbech, J. Ferguson and some other western scientists deny, for example, the fact that states represent the highest level of civic identity and loyalty.

Atomization of the people turning into a diffuse mass is necessary in order to ensure that it does not provide any resistance to total robbery [33, p. 128]. And for the "virtual host" it is beneficial to push comprador elite to

"mess" and lawlessness as illegitimately acquired property is sold for a pittance. At the same time another goal is achieved: separation of society. This path causes the conflict and contributes to the escalation of terrorism [44, p. 231].

Based on these and other similar international sociological observation and analysis, criminology should see that the priority of intimidating violence with blackmailing and practical impact on any innocent people may come to the forefront in the international life and make up its essential characteristics. This grim prospect is very real in the current direction of the development of the international processes.

On the one hand, on the probable scale and ferocity of terrorism the potential intransigence of rejected and cheated indicates. On the other hand, the fierceness of the possible combat is determined by military capability and economic strength of the Western states. But it should be understood that the more powerful barriers the new oligarchs will erect to protect their privileged position, the more sophisticated, monstrous and large-scale the terrorist attacks will be in attempt to destroy these obstacles. On the principle of filling the lack of comparability of these two opposing parts of terrorism rests its vitality, in this also the potential for escalation of terrorism to the planetary scale lies.

That is why the disavowal of the state-centric model in the theory of international relations and the destruction of statehood within the neo globalist practice provide the way to the escalation of social conflict in the international space, the path for incredible jump of terrorism.

Among the socio-space levels that influence the formation and development of the international processes the state national level is crucial, basic. Criminology cannot pass by the problem of the quality of the theories of international relations. If we take into account the circumstances and motivations, and institutional conditions for the development of many of them, and the location (condition, status) and professional careers of authors of these theories, serious doubts about their objectivity may appear. In any case, we should not always perceive and analyze these theories as pure, devoid of prints of subjectivity and expediency.

The multiplicity of the majority of the authors of the theories of international relations (belonging to the academic environment is only one, at the same time, marginal part of their way of life), their subjectivity, political engagement, and mainly the original commitment to the theoretical service of the dominant policies and corresponding to them institutional mechanisms make the experts seriously doubt about the depth and scientific-theoretical validity of these discourses [7, p. 269-274, 302].

This state of affairs persistently returns to the idea about the priority of international law providing the normative regulation of combating terrorism, which does not leave place for the influence of various practical subjective circumstances. Taking into account a weak justification of these theories, there are still reasons to expect that their supporters will oppose the constructing of dispassionate, objective international anti-terroristic law, which is based on qualified criminological research.

Otherwise, the “fig leaf” of their arguments in favor of ethnocentrism, democratization, fragmentation and the need to restore order in the world (with the assertion that this concerns the most developed countries) will fly off revealing the real terror generating zones and international factors that generate terrorism.

From the above mentioned facts it follows that the sociology of international relations both at the disciplinary level, and from the point of view of "applicability" of this science to the problems of terrorism in their international vision, contributes significantly to the understanding of the place and role of terrorism in international processes as a kind of product of these processes, their party and, finally, regulatory entity.

Firstly, it is sociology of international relations, unlike any other social science, is able to effectively highlight the threat of terrorism in its natural "embeddedness" in the international social mechanisms. This also illustrates the international nature of terrorism and its characteristics as an international phenomenon.

Secondly, in the light of the basic principles of the theory of international relations the growing role of terrorism is most clearly and persuasively objectified and materialized as an active and influential

participant (actor) of contemporary international life. Moreover, the previous estimates, which are formed on this basis, give reasons to believe that with the development of neoglobalist tendencies the role of terrorism in its most unexpected interpretations may increase in high dynamics. This indicates on a correlative association of terrorism with neo globalism.

Thirdly and finally, basing on the demonstration (with the help of sociology of international relations) of social unnaturalness of neoglobalization processes, having terrorism in their nature, the international criminology generates arguments that political decisions, as parts of these processes, are not able to change anything.

So, criminology receives the effective scientific tool to justify that passionless, clearly formulated anti-terroristic law is a tool, for the development and implementation of which the rival parties in a global terrorist conflict have to dare with the purpose of removing the danger of megasocial disaster.

The culturological method of studying terrorism

The potential of culturological method of studies and international legal prejudice of terrorism is defined by a large role of world culture in forming global human values, and, therefore, the rules of behavior on the basis of which, actually, international law is formed (through custom rules).

That is why, evaluating the phenomenon of terrorism, its unprecedented intensification since the 70s of the 20th century, one inadvertently raises the question: why is culture having such a powerful planetary potential (because it is owned by all the people regardless of their level of economic development) still unable to cope with the savagery of bloody terrorist conflict?

The Russian researcher I.A. Vasilenko, analyzing the possibilities of culture on elimination (reduction) of conflict in international relations, points on promising prospects that she sees in the rapprochement of peoples and cultures on the basis of the need to solve the common global problems [8, p. 337-338].

Similar hopes I. Levyash associates with the possibilities of culture, expressing belief that only the updated culture will save the civilization of the XXI century, and this culture is able to ascending from the abstract to the practical humanism [26, p. 3].

To the analysis of the problems of deformation of Western liberalism, its place and role in a globalized world as the leading culture of the modern world in their works the scientists V.L. Inozemtsev, A.S. Panarin, E. Todd, W. Beck, A. Etzioni, F. Zakaria, etc refer.

Cultural aspects related to causes of the growth of conflict in international relations are also considered by economists (A.I. Neklessa, M.G. Delyagin, S. Strange, S.Y. Glazyev), sociologists (M.M. Lebedeva, K.I. Polyakov, A. Toynbee, I. Wallerstein, J. Meyer, M. Finnemore, M. Girard, etc.), political scientists (K.S. Gadjiyev, O.G. Virabov, Z. Bzhezinski, A. Wend, J. Ferguson and others).

Unfortunately, the political practice of contemporary international relations (to different extents and the aforementioned authors state it) indicates the predominance of the reverse negative trends.

Considering the criminological aspect of the relationship and interaction of such seemingly remote from each other phenomena as culture and terrorism, it is important for criminology to find that basis, which assumes the possibility of comparability of these concepts and justifies the very validity of the analysis process from a methodological point of view.

Culture is the subjective, establishing value-oriented human activity, the process of social liberation of man as a subject of historical formation [26, p. 7]. Therefore, "the assertion that what society is, such is its culture, and vice versa – what the culture is, such is a society, are equally valid" [26, p.11, 13].

The social nature of terrorism is also not in doubt. Consequently, there are reasons to think that this approach gives the knowledge about the nature of terrorism and the correct definition of such a regulatory system of coordinates in international law by introducing in which the international crime of terrorism, one could rely on an effective influence.

For the assessment of the criminological usefulness of cultural studies warnings about not identical nature of the concepts of culture and civilization are fundamentally important. According to the conceptual approval of N.A. Berdyaev, when the "enlightened" mind sweeps the spiritual barriers for the use of "life" and enjoying of "life", when the will to power and organized mastery of life reaches the highest tension, then culture comes to end and civilization begins [4, p. 167].

We refer to comparison of the concepts of culture and civilization not by chance. Except the direct purpose to understand the difference in the meaning of these terms, the comparison opens for criminology the opportunity to see the genesis of appearing of terrorism as a part of civilization within the framework of transformation of the latter from the culture.

It becomes clear that terrorism is a phenomenon that takes in the complex structure of a bilateral struggle arising normally when in one of the parties "too much will to power and might is found".

Culture, unlike civilization, is selfless. It occurs over economic interests and vital pragmatic criteria of societies. It brings equality, comparison of peoples and states in their international relations, offers a broad framework for dialogue and conflict resolution. The domination of pragmatic civilization I. Levyash calls genuine oedipal effect of rebellion of daughter. In his view, such domination embodies the era of decay and impasse in relations between cultures and civilizations. For the culture it is a signal to renew its eternal meaning and its objectification in a new civilization [26, p. 25].

Meanwhile, the most characteristic sign of decay and impasse, the signal for renewal is the terrorism, when peoples on a global scale, ignoring their spiritual values, in solving socio-political issues go to the language of blood, universal blackmail and intimidation.

Considering the powerful "civilizational leap" of the economically developed countries it becomes clear that the boundaries of the search of main conflictological start in relations of cultures for international

criminology are determined by examining the difference between the processes occurring in the Western and Eastern cultures.

The first culture is more pragmatic, and takes the form of civilization. Moving away from the spiritual foundation it tries to compensate this with the help of expansion, artificial imposing of its democratic values to countries and peoples of another culture. Along with this selfish and individualistic origin in Western culture there is also a tendency to traditionalism, referring to its origins and roots. In the cultures of the East (particularly based on Islam) in upholding of their traditionalistic origins peoples see the opportunity to maintain their cultural identity and resist the *civilizational* expansion of the West. Such a high price more often gives to this confrontation a terroristic nature. As pointed out by the known Western sociologist R. Bella, the expansion of Western values and structural models in general is an obvious process. The American sociologist A. Etzioni, marking a bloody conflict of Western culture, offers to lean in the direction of the values of the East [51, p.73, 99].

Without denying the undoubted benefits of Western cultural messianism (not missionary work as a tool of colonialism), spreading of technical and economic achievements of Western civilization, its spiritual values, criminology, armed with culturological scientific instruments, still gives the understanding that in this expansionistic way the basis of conflict nature was put into a relationship of civilizations. In relation with other factors of political, social and economic character it became an integral part of the international socio-political phenomenon, known as "modern terrorism" and forming one of the world's most dangerous threats.

The above mentioned rules and norms of the Western culture are called to develop the organizational and behavioural similarities around the world. Because they are defined as "institutes", this approach is called "institutionalism" [47, p. 91]. As it was noted, the obtrusion of Western values to other peoples and states is not painless and creates conflict. However, the institutionalists, like no other theoretical trends in the sociology of international life, try to objectify the process of cultural assimilation in the scheme of cultural assimilation, including in such

crucial for globalization functional areas as the organization and management of economy, social structuring, security etc. [53; 47, p. 101]. It is not by chance that A.S. Panarin, exposing the destructive potential of the postmodern culture, which is preached by the Western neo-liberalism (including institutionalism), supplies it with unambiguous epithets "secular", "pragmatic", "deliberate" [33, p. 23, 24].

At the same time, according to the institutionalists, states are not always objectively functional; they not always and not everywhere provide effective security, economic growth and equality of rights. Taking into account the backwardness of many post-colonial countries, this situation can only be understood as the result of strong external cultural support in the global environment [65, p. 144, 145].

So, for criminology, which is concerned with the sphere of international crime, the contradiction in the arguments of institutionalists is obvious: at in general charitable messianic penetration of the Western culture into the rest of the world many states, having "got" this culture, remain underdeveloped, if not more. However, there is no contradiction. On the contrary, in these statements of apologists of the Western culture there is the logic denying them, because, in fact, it goes not about the penetration of culture, but about the civilizational globalist expansion [9, p. 81].

The basis of this process is rather fully shown through the problem of the so-called "axial" cultures. Features of the "axial" cultures capable of producing violence and conflicts are xenophobia and missionary work, which I.Y. Levyash calls "the curse of culture". Referring to the famous American sociologist J.Smelser, he notes that Americans usually consider the description of non-Western cultures as exotic adventures in literature or mystical films. From their point of view, the Western way of life is correct, and non-Western one is strange and barbaric [26, p. 97]. The result is the strong logical scheme of such an expansionist aspirations – from the spiritual dictatorship to fight for resources and power, which is sanctified by the corresponding ideology (for example, the priority of the Western values) [54].

The specialists here perceive the realization of the main goal, which is to dismantle the national sovereignty of patronized countries, to implement the strict control over the actions of their governments, and to ensure the compliance of their policy with the interests of foreign "investors" [11, p. 81].

That is, "the practice of globalization" (the same is the name of the book edited by M. Delyagin. – *V.A.*) inevitably leads to commercialization, and then to the destruction of culture in the non-Western world [34; 33, p. 118].

The important international criminological conclusion here is as follows. The globalists appeared in their own trap: during the dithering of national cultures and performing the game "on the decline" in the economic sphere, they have to openly demonstrate anti-democracy and totalitarianism [33, p. 122; 44, p. 174, 175], thereby producing the conflict, to disguise which under the ethnic or interregional strife it has become impossible.

International criminological product, that should determine the direction of law-making primarily in international criminal law and international counter-terroristic law, to the large extent can be linked with the revealing of the content of such a derivative and a component of the Western culture as financial civilization. It is clear that speculative-adventurous nature of the financial transactions, encouraged by the world oligarchy and able to destroy even countries with stable economies, cannot be identified with the liberal values of the West in the spirit of modernity. However they, as such, point to the deconstruction of the foundations of the Western culture. In these iconic images and symbols, it is increasingly rejected by countries and peoples, encouraging them to fundamentalism, extremism and violence (the components of the modern "classical" terrorism) [28, p. 14; 47, p. 103].

In this regard, the financial sector of the world economy is not alone. In the real economy processes, showing the operation of an idea of the single world culture (of course, on the Western image and similarity) also actively produce international conflicts. To say that the "superintendents" of economic globalization do not want to draw conclusions from the

lessons that are given to the Western society by the 20th century is out of place, because they not only do not want to do this, but cannot do this. The global crisis is an eloquent proof of this.

Thus, the priority in the hopes of removing the determinants of international conflicts should increasingly be given to international law. International criminology should ensure the adherence to principles and efficiency of the international law-making, and for this the application of the cultural approach is particularly useful.

It's obvious that the natural essence of culture stood in the way of economic aggression of anti-social character, gaining strength on the background of neoglobalism. As a result, the culture is subjected to deconstruction and destruction. As the response aggression, the existence of which, including at the level of social groups, proved Erich Fromm [48, p. 256-286], is realized mainly by passionary groups in developed countries and by peoples of the states of the "third world", in tactics of their fight the proportion of terrorist methods of action is steadily growing.

It should be added that the level of a "culture of violence" in general is markedly reduced. Not by chance, one of the main justifications of the establishment of Rome Statute of the International Criminal Court and its institutions is a concern of the international community about the fact that "delicate mosaic of intertwining of cultures of all peoples" which "forms a joint heritage" can be "at any time ruined" [35 p. 253].

If these reasons are correct, so are the others. In the result of the application of cultural method (even in such overview) international criminology of terrorism received the possibility to confirm the previous conclusions regarding the determination of terrorism, obtained through the use of other international sciences. These are: terrorism as an international socio-political phenomenon cannot be estimated as the shape or manner of armed violence (that is as the terrorist acts as such). This is a two-way process of mutual violence with political, economic, social, historical, cultural and other aspects that became very active in the conditions of globalization. Its main characteristics are associated with the increasing deterrent effect on the international community.

So, regarding the cultural determinants of terrorism the following conclusions should be noted:

1. Cultural differences as such, their pluralism, should not be evaluated as the causes and conditions for the appearance and implementation of violence and terrorism. Terroristic conflicts arise within the development of civilization, when spiritual values departing from the scope of creativity are transformed into pragmatic civilizational values.

2. Western culture, which is based on liberal values and is described as modern, although felt rejection in non-Western world (mainly it happened because of aggressive missionary work), however, the conflicts arising in this matter, did not have the character of a large-scale aggression, and did not reach the level of the global threat. They become dangerous only when the liberal Western values undergo the post-modern deconstruction and in this form (for example, "mass cult") are used by neoglobalists in order to make the world the absolute fiefdom of the world's elite avoiding the using of military action and only by economic and cultural expansion. In these conditions terrorism is widely used. It activates with the growth of the negative factors of the neoglobalizational processes.

3. Involvement of the humanitarian sphere in confrontation and uncontrollability of critical economic processes requires a high efficiency of international law. It is international law corrected with the adequate criminological assessments that is aimed to promote the creation of forms of consensus combining the potential of diversity of world cultures and taking into account their characteristics. These forms of consensus would form generally acceptable legal rules and mechanisms to combat terrorism, based on a coherent conceptual framework.

In fact, these international legal structures could be the embodiment of the essence of an integrated world culture.

5.3.3. The system of methods of international criminology of terrorism and its subject

The analysis of the scientific data regarding the basis of the genesis of terrorism, rule-making and enforcement practices to fight it, gives reasons to believe that around the problem of studying terrorism a number of specific methods are generated which determine the nature of this international crime, causes of its appearance and escalation, and also the ways of its elimination from international life.

In fact, a system of branch criminological methods was formed, which is caused by the necessity to study terrorism that is one of the most urgent and, at the same time, very specific international crime.

The corresponding specificity of methods performing unifying foundational role creates the opportunities of real study of terrorism in the whole diversity of its phenomenon. This is important, because the previously observed disregard of such a system methodological approach and preference for the traditional criminological tools in the study of terrorism, which are poorly combined and differentiated with the global essence of this crime, led to the incomplete understanding of its concepts and to distorting of the subject of science and legal regulation. In its turn, this caused the widespread recognition of the inefficiency of the international legal impact on terrorism.

That is why it is logical that criminology in this area needs international methodological filling of its content. There is also a trend towards a gradual ordering of methods of knowledge of terrorism on a certain hierarchy.

At its upper levels such terrorist methods of research dominate as the theory, the axiomatic method, idealization, formalization, hypothesis and supposition, etc.

The second step of the hierarchy is occupied by the branch methods of criminology as sciences of criminal-legal cycle: historical, sociological, sociobiological, statistical, etc.

The originality of terrorism dictates the necessity of a specification of methods of the first and second groups (under condition of preservation their fundamental role) and of formation of subsector level methods on their basis able as scientific instruments to directly provide the analytical insight into the specifics of the very origin of this crime. And this specific feature is inaccessible to conventional, traditional methods of criminology. For example, these include the described above conflictological method, paramilitary method of assessment of terrorism, the method of specialized international legal qualification of terrorism, etc.

But this group of methods needs the functional specification and the "terrorist" filling of their content. Therefore, it is at the stage of application of these methods that the main specialized product forms - the so-called scientific methods-instruments that meet the specifics of terrorism. Due to them international criminology acquires the ability to cover a certain set of factors defining the determination of terrorism, the ways and means to eliminate it.

As such methods-instruments the mentioned above method of terroristic asymmetry, method of estimating of absolute hostility of the parties of terrorist conflict became apparent within the group of "paramilitary" methods. The extraordinary scientific tool is the using in the interests of international criminology of terrorism of the phenomenon of military irregularity.

The systemic character of the group of specified for the needs of research of terrorism methods is determined by versatile correlation relations inherent in any system.

The combination of possibilities of the conflictological method in conjunction with the legal method of international legal qualification of terrorism as a crime under international law created a key method for understanding of the nature of its legal mechanism – the method of qualification of the collective subject of the body of terrorism. On the grounds of the same conflictological method the understanding of the special constructivity was formed as a scientific tool, which is added by

terrorism to the affected social sphere of the modern international community in crisis.

On the same principle of urgent practical need for studying international specificity and nature of terrorism, its legal and social phenomenon no less significant group of the so-called "discipline" methods was formed. These methods got their names according to those contiguous with international law international scientific disciplines, the possibilities of which are drawn to the study of the target "subjective" characteristics of determination of terrorism. These methods include geopolitical, geoeconomic, international social, cultural and some other methods of the international criminology of terrorism.

Therefore, the essence, the center of the interaction of the diversity of the scientific opportunities, the substance giving to the mentioned hierarchy of criminological methods in the studying of terrorism the qualities of the system of methods of a separate direction of criminological science is a set of scientific methods and instruments that produce each other and influence one another. Their effect is determined by their relationship and interdependence in their function of elements of a whole entity. The integrated use of these methods in the dynamic diversity of scientific instruments, contained in sciences representing them, brought an exclusive result in the form of the renewed understanding of terrorism as a social criminal phenomenon and corresponding body of international crime. And this gave grounds for the author and the people of the same views to judge about the particular international direction of the science of criminology. Namely the use of these methods in the format of an integrated system allowed us to make a step outside the understanding of terrorism as the phenomenon, based on the social megaconflict, in which the decisive factor of influence is the absolute asymmetry of terroristic action methods which, actually, embodies its phenomenon.

Because in major part with the help of these methods and approaches in their combination the possibility appears to give an adequate assessment of terrorism, to formulate its definition and to put the ground for the corresponding international social policy and criminal control, and also for

the international rule-making and legal enforcement activity, there are reasons to separate them and combine them in a structural form of a separate direction of criminology – international criminology of terrorism.

The focusing within such theoretical scientific structuring of the corresponding developments and analyzes allows to eliminate the dispersion of anti-terroristic efforts in many fields and aspects of both legal and related sciences and to combine them around the criminological model of cognition and elimination of global terroristic conflict, which is the expression of the essence of terrorism.

It is not by chance that the criminological basis of studying terrorism a conflictological method constitutes.

So, in the study of terrorism, its causes and criminal mechanisms the conflict as the social category takes one of the most important places. Firstly, the conflict lies in the basis of the social development in general; it is in the global economy and reflects its regressivity, manifested, in particular, in terrorism. Secondly, the conflict is the essence of terrorism as a social phenomenon and represents this international crime in the real image of the product of social interaction between the opposing sides, and this gives the efficiency and effectiveness of the special system of actions and, first of all, of international law. Thirdly, the conflict together with criminality possesses also a positive function. It is determined by the fact that by giving terrorism the openness of characteristics and unprecedented by degree of public danger dynamics, conflict allows to draw attention of the public not only to the terrorism itself, but also to the nature of socio-economic processes in the global society capable to generate and nourish terrorism.

Fourthly, the awareness of the content and functions of social conflict in general and terrorist conflict in particular at the same time implies the elimination of the prerequisites for a catastrophic scenario for a change of the world order, to which the world society is approaching. And this gives the key to the formation of the effective international anti-terroristic law and destruction through its regulatory impact of socio-economic foundations on which terrorism is based.

Finally, it is also important that in the method for the study of terrorism, which is based on the cognition of the conflict possessing sociological, economic, cultural, political, military, and other characteristics, the interdisciplinary scientific approach is realized. As one of the main characteristics of criminology in general, this approach, and rather the need for its use concerning terrorism with the specific format of the involved sciences, is the evidence of a separate criminological direction – the international criminology of terrorism.

The measuring of the appropriateness of such a separation, as it was mentioned earlier, is not limited by the considerations of the the order of the process of scientific creativity and systematization of the possibilities of embodiment of its results in lawmaking and law enforcement practice. These general guidelines for the development of criminology in this case are specified by the main purpose – the creation of conditions of the full use of the correlation potential and international capabilities of these methods in the harmony of their complex use.

It is such an organizational combination of methods in criminological continuum that allows evaluating the subject of study in its true content.

Ordering within the independent direction of criminology prevents "dismantling" of the understanding of the concept of terrorism (as a subject of study) on the elements of a fragmented perception of its individual characteristics that are fixed in specific disparate areas of scientific knowledge.

With the dominating legal-dogmatic approach and under the influence of political expediency this results in the distorted view of the determination of terrorism and confuses international law in fighting with it.

Each of these methods not only complements each other, contributing to obtaining the diverse picture of a criminal phenomenon studied, but also provides the cognitive material to the achieving in theoretical way of understanding those aspects of the phenomenon that were not studied with the help of any single method.

The cumulative effect from their mutual enrichment and mutual influence, increasing the total credibility of arguments, taking into account their diversity and complexity, simultaneously intensifies and develops the capacity of each method and science on the basis of which it was formed.

Giving the example of a structure-factor response to the current challenges and threats arising in the international environment, the actualization of the problem of international criminology of terrorism and the suggestion for its separation as a scientific direction and as educational special discipline has a positive impact on the quality condition of the science of criminology itself. First of all, its compliance with the basic principles and purpose of criminology is confirmed, and also the ability to accompany the process of internationalization of the public life and to cover with the scientific attention the criminogenic factors arising in the process are confirmed.

These and several other criminological methods, if to consider criminology as the certain scientific system, form the main content of a subsystem of the separate scientific direction of legal criminal science and at the same time of the deep sociological science – the international criminology of terrorism. These methods operate in correlative connection as well as legal social factors on which they are based. And only with the availability of a complex assessment of the statements and conclusions produced by them, the formation of the necessary scientific and theoretical developments is possible, which would create a real idea about terrorism as an international socio-legal phenomenon and as an international crime, about its determinants, causes, global threats, which it forms, and ways of decision of global problems which this crime has exposed and sharpened to an extreme degree of actualization.

The specificity of the methodological basis of this scientific direction of criminology, first of all, consists of the fact that it forms a ground for denying the absolute anomaly of terrorism. Creating the conditions for the demonstration of cruelty and barbarity accompanying the global terroristic conflict, such a basis, at the same time, opens the constructive aspects of this phenomenon, the objectivity of the international political and socio-

economic conditions of its origin, accordance of their extreme cruelty and dehumanization of that social asymmetry and polarization, which is produced by globalization of the world economy.

Also on the objective grounds a special process of scientific knowledge of the genesis of terrorism is formed: the emergence and formation of "non-standard" multi-dimensional and multi-level international crime of terrorism is accompanied by the formation of non-traditional "non-standard" methodology of its cognition in criminological science.

The subject of international criminology of terrorism is also very specific. In fact, the phenomenon of terrorism as the international social phenomenon and as a crime under international law (and this is the subject of international criminology of terrorism) was in the focus of the scientific attention as long as this study was developed. We can only summarize the observations, draw conclusions and determine the specificity of the concept of the subject of international criminology of terrorism. The mentioned above other research material shows that terrorism as a subject of criminological science appears in the format of two components. One of them is, in fact, the terroristic methods of operation, that is acts of terrorism. Another component is the economic and socio-cultural factors that caused the global financial crisis, and for the needs of criminology they may be defined with some convention as criminogenic factors of globalization.

Such description of the object of research of the separate direction of criminology – international criminology of terrorism – complies with international legal qualification of the body of international crime of terrorism and it is distinguished with definition of its concepts.

The feature of such a subject of criminological science consists in indissoluble, but antagonistic relationship of its components. And this antagonistic interaction occurs within the subject. The mentioned as its component criminogenic factors of globalization have the criminogenic impact not on terrorism (as a "total" international crime) but on the terrorist activities in the understanding of it as activity in the organization and

performance of terroristic acts. If to take terrorism as such, these criminogenic factors, combined with terroristic activities (through antagonistic interaction) form the international crime.

Such antagonistic interactions of the components of subject give reasons to raise the question about the expediency of formation of the internal scientific instruments in a separate direction (international criminology of terrorism).

These tools are determined by the known sciences and scientific branches mentioned above: geopolitics, geo-economics, sociology of international relations, cultural studies, conflictology, military science, etc. But for the needs of our object of study, proceeding from its difficult structure, scientific instruments, formed on the basis of these and other sciences have to have the internal character. That means that in antiterroristic sphere these sciences will work productively, if criminogenic factors of globalization will be considered not as the external reasons and conditions of terrorism, but as an element of the body of this international crime. They remain criminogenic factors for terrorist activities as part of terrorism.

Accordingly, there appears the expediency of antiterroristic specification of these sciences by providing the specialized areas of interest. In fact, the complex of such specialized spheres of antiterroristic interest, which are provided for needs of research of terrorism, *forms scientific tools of the international criminology of terrorism.*

Otherwise, if these sciences continue to work from the outside, separating from the criminal mechanism of the international crime of terrorism the reasons motivating to terroristic activity (that is to acts of terrorism), the criminological science in the fight against terrorism, at least, will fall into stagnation. The research of the distorted subject which is now for criminology not terrorism, but acts of terrorism, doesn't need branching, separating or any other form of specialization of criminological science. In such understanding it fits well within the range of criminological possibilities providing the criminal sphere, including transnational crime. However, as known, these opportunities do not bring a notable result to

terrorism. And, as we were convinced here, it will not bring. Having in the scientific-theoretical focus the distorted object of research, the modern criminology directs the international antiterroristic law in a wrong way, the convincing proof of which is insignificant efficiency of the latter on the background of the escalation of terrorism.

From here, it is possible to determine one more conclusion concerning the specifics of the direction of the international criminology of terrorism.

It consists in the fact that terrorism, due to the caused by it specific criminological methods based on the conflictology of terrorism, on the collective subject of its international body of crime, on the theory of terroristic asymmetry, on the exposing function of terrorism, etc., as a social reality itself, represents the specific tool of criminology concerning globalization, its criminogenic aspects, that is, its "own" criminology.

The function itself of the theoretical justification of the genesis and maintenance of terrorism, as many other things concerning this international criminal phenomenon, contains elements of asymmetry and illogical elements.

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Conclusions

Like everything new in science, the provisions of the monograph reflecting its basic idea – the justification of necessity for the international specification of criminology – are, certainly, polemical and do not apply for faultlessness.

But the indisputable fact is, firstly, that the internationalization of public life, and also the internationalization of its component – crime, does not leave for criminology as a science about crime the alternative of filling with the international content. Secondly, it is obvious that the internationalization of crime naturally caused such criminological methods which in their sense are international. And, finally, there is no doubt that in the sphere of research of terrorism as a crime under the international law the solid criminological base has been developed which is international in its nature. It, actually, has concluded a system of arguments justifying the international branching of criminology.

The main from these arguments is the actual existence of the independent specific direction of criminology – the international criminology of terrorism.

From the point of view of criminology, terrorism in this book appears in several interconnected forms. First of all, it has become clear that due to the use of a wide range of related with law international sciences in the doctrine the understanding of terrorism was formed as the international crime based on the global terrorist conflict. In its turn, it is the experience of research of terrorism that led to the understanding of special features of criminology in the sphere of the international crime, of need for the development of the international direction of criminological science. The extraordinary features of terrorism, its actuality and influence on the international processes, and also the actual scientific tools, which were created around the problem of knowledge and definition of this crime, give a basis for the separating of the independent direction in criminology – the international criminology of terrorism.

So, the key provisions in the assessment of terrorism defining the essence of the international legal antiterroristic mechanism are the following. Terrorism as a product of the objective development of the world community is objectified in the process of increasing of crisis of the existing world system. And the responsibility for its emergence, escalation, and also for the specific manifestations the whole society has to share (within the corresponding legal qualifications).

This conclusion is based on a comprehensive analysis of terrorism with the use of sciences adjacent to the law: conflictology, geopolitics, geoeconomics, sociology of the international relations, culturology, and military science, etc. The integrated approach allowed to see terrorism in a difficult conglomerate of the phenomena reflecting the content of the modern world processes, and to show a lack of effectiveness of international law in fight against it that is convincingly confirmed by the law-enforcement practice of the last decades. The absence here of notable results and the escalation of terrorism connected with it are caused by two main reasons. First of all, it is the incorrect social and legal qualification of terrorism leveling this international social criminal phenomenon to the level of acts of terrorism, proceeding (in this version) from not numerous terroristic groups and networks, though well organized ones.

Such simplification, in addition to the direct juridical damage to the effectiveness of counteraction of terrorism forms the conflict environment and fills the global terrorist conflict of the social nature with additional significant tension. And it, in turn, turns terrorism into a factor able to influence on the global development and the following world order.

The second reason of more than modest achievements of the international legal anti-terroristic fight is the absolutization of crime of the terroristic methods of actions that places significant barriers in the way to cognition of the causes of terrorism in general. Put beyond the measures of the juridical qualification of terrorism the key elements characterizing the body of this crime (such as motivation and goal-setting), with anti-legal nature, transform into a significant social indignation through the mechanisms of the politicization.

In the process of cognition of the international essence and difficult specifics of terrorism rather sufficient integrated system of criminological methods was created. The actualization of the problem of the international criminology of terrorism, giving an example of structural and factorial response to the world threats and challenges, has positive impact on the qualitative condition of science of criminology. The correspondence of the new direction with the basic principles and purposes of criminology is confirmed, and so does also the ability to accompany the process of internationalization of public life and to cover with scientific attention of the criminogenic factors arising in this process.

The feature of the methodological basis of this scientific direction of criminology consists in the fact that such criminology forms the ground for denial of the absolute anomaly of terrorism. Creating the conditions for demonstration of the cruelty accompanying the global terroristic conflict, this basis, at the same time, opens the constructive aspects of the phenomenon, objectivity of the international political and social and economic conditions of its emergence, shows the compliance of their extreme cruelty and dehumanization of that social asymmetry and polarization which is produced by the globalization of world economy.

The hopes for the passing character of terrorism are vain. The indicator of its constancy and sustainable impact on public processes is the adoption of the culture of the asymmetric relations in society, when the lack of the desired opportunities, closed for realization in the legitimate social space, is compensated by the use of asymmetric (available, not legitimized) means.

Since the inequality of human society is a constant value, terrorism as the major element of culture of asymmetric relations seems to be a stable social factor. It is activated in the periods of crisis and social polarization of the society. Terrorism with its asymmetric essence strengthens the foundations of such a system of social relations, in which the criteria of identifying equivalence (comparability) of the subjects in the social space are those manifestations of social interaction, which bring the advantage out of relying on physical indicators in the level of development and

perfection of the subject. This gives rise to the assertion of the type of culture where the relationships are determined on the basis of the asymmetric criteria. That is, they do not rely on the objective material basis being influential and authoritative, and form the foundation for the domination as it happens with terrorism. In the opposite pole of the planetary conflict environment such a phenomenon of global asymmetric subculture is represented by the financial civilization, with its ability to create wealth without producing value.

Presenting thus a reciprocal step in the developing relationships of asymmetry, terrorism, however, brought to the global-scale consequences, since in the asymmetric confrontation of the global terroristic conflict the international community is drawn.

Thus, terrorism as the subject of criminological science is presented in the format of two components. One of them is actually the terroristic methods of operation, that is acts of terrorism. The other component is the economic and socio-cultural factors that caused the global crisis. For the needs of criminology they somewhat conventionally are identified as criminogenic factors of globalization.

The peculiarity of such a subject of criminological science consists in inseparable, but opposing relationship of its parts. And this antagonistic interaction occurs within the subject. Defined as one of its constituents the criminogenic factors of globalization indirectly influence in the criminogenic way not on terrorism (as a "total" international crime), but on the terroristic activities in the understanding of it as activity of the organization and performance of terroristic acts. The process of impact of this activity on these criminogenic factors in combination with their reaction forms terrorism.

From all facts mentioned above the conclusion follows about the importance of international criminology of terrorism and the reasonableness of the suggestion to separate it into independent branch within the science of criminology.

Terrorism makes the relationships of subjects comparable, the possibilities of which (first of all the military economical ones) differ in a critical way.

The adoption of such a relationship happens in the only way – through the use of the asymmetric means of fighting (the opposing interaction), where terrorist acts are very widespread.

The terrorist methods of operation as a type of common criminal acts (explosions, arsons, taking of hostage, vehicles etc.) for criminology do not present some unusual features and do not require a special methodology.

The specificity of criminology, the object of study of which is the described above "asymmetrical" relationships, is grounded by the necessity of the determining of criminogenity of factors and circumstances of that primary social and economic asymmetry, the reaction on which is terroristic assymetry (that is, acts of terrorism).

Such (subjective) content of criminology assumes the need for development of the new methods of research of the international social reality, and that finds the embodiment in the new direction of this science – the international criminology of terrorism.

V.F. ANTYPENKO

**INTERNATIONAL
CRIMINOLOGY:**

**THE EXPERIENCE OF THE
RESEARCH OF TERRORISM**

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