

Liability and Guilt: A Linguistic, Psychological and Socio-Legal Analysis

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Abstract: The article provides an analysis of the categories of guilt and liability, taking into account the approaches formed in linguistics, sociology, psychology and jurisprudence. It is noted that the concepts of guilt and liability, as phenomena filled with a specific historical character, are poly-scientific categories and are the subject of research in many sciences: psychology, jurisprudence, history of philosophy, sociology. The article examines the main theories of deviance: the economic theory of deviance, the theory of heterogeneity and variability of the normative value system of society, the theory of social destabilization and the theory of stigmatization. In addition, within the framework of the studied phenomena from a legal point of view, statistical data on the crime rate in the Russian Federation for different periods are provided.

1 INTRODUCTION

Categories of guilt and liability are, first of all, psychological concepts, but at the same time they are not in the least degree of historical-legal and socio-legal nature, and maybe even to a greater extent. At different eras of the genesis of society and the state, the understanding of liability and one of its elements – guilt – was ambiguous and sometimes even contradictory. At the dawn of human society, attitude to responsibility, its understanding and implementation were reduced to the elementary primitive level according to the principle of talion - an eye for an eye, a tooth for a tooth, when in most cases the punishment for an act was death of the one who caused harm, regardless of whether he was guilty or not for the act which caused damage. Subsequently, as society and state institutions developed, the genesis of responsibility in the historical perspective was embodied in the modern stage in the formulation of responsibility from the perspective of the principle of guilt.


Guilt and liability as polyscientific categories imply their study from the positions of different sciences, such as: psychology, jurisprudence, history of philosophy, sociology, etc. After all, ultimately, a


person as a "carrier" of guilt is a mental being, in terms of his essential mental activity, and a social being, in terms of the need for interpersonal interaction between people in society. It is impossible not to take into account such moments in the legal analysis of the studied categories.

An important element in the process of personality formation is the legal consciousness. Legal consciousness as an element of personality structure, formed, among other things, through psychological and pedagogical education is an important component in the implementation of the individual's behavior. Lack of legal consciousness or its insufficient degree is associated with the risk of implementation of the behavior by the subject that is considered unethical, anti-social, and, ultimately, unlawful. Unlawful behavior presupposes as its natural result the reaction to this state of affairs on the part of society and the state. In other words, unlawful behavior is characterized through such legal categories as guilt and liability of the individual.

Guilt is not liability and liability is not only guilt, although these are interrelated scientific categories, they are not identical.

How does one understand guilt, how does one define it? What emotions and feelings are associated

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with the undergoing of guilt by an individual? As a rule, guilt is characterized as a reaction to the result of deviant behavior. It is natural that the researcher-lawyer is interested in guilt as a legal category. However, it should be noted that a general judgment about guilt can be formed only with a comprehensive analysis of this category from the perspective of not only legal science, but also the sciences we have outlined above.

2 RESEARCH METHODS

In the process of the study of these phenomena, first of all, let's turn to the etymological analysis of the concept of guilt. In the explanatory dictionary of the Russian linguist V. Dal guilt is defined as follows: "Guilt – a fault, misdemeanor, transgression, as well as any unauthorized, reprehensible act" (Dal, 1955). As can be seen, guilt is assessed by V. Dal from an objective position. That is, guilt acts as a result of an impermissible behavior, action. This is also evidenced by the attribution of guilt to a "reprehensible deed". In other words, a person is condemned by another person, the authorities, society as a whole.

Another Russian linguist S.I. Ozhegov in the Dictionary of the Russian Language defines guilt almost in the same way, namely as "a transgression, a crime; the cause, the source of something (unfavorable)" (Ozhegov, 1986). It is easy to see that here we are talking about an unlawful action. Thus, the scope of the concept of "guilt" is almost completely identified with the concepts of "misdemeanor and crime". This means that the presence of guilt indicates the presence of an unlawful action (misdemeanor or crime) and vice versa.

Also, V. Dal's Dictionary states that guilt is a duty, an obligation, a debt. "Sometimes a pecuniary penalty, blame, penalty is called a fault <...>" (Dal, 1955). That is, if a person was at someone's command, was obliged, and also had a debt, it was said about him that he was guilty.

We proceed from the fact that the psychological interpretation of guilt and responsibility implies their characterization from the position of such psychological state of a person, its internal discomfort state, arising in situations when a person undergoes guilt, due to the negative assessment of his actions, due to his violation of the established imperatives. Such a state acts as a regulator of relations on an internal and interpersonal level. At the same time, as O. Vasilyeva and E. Korotkova state "guilt, designed

to play in the life of society the role of a social regulator contributing to its integration, in practice has acquired disjunctive functions". They explain this phenomenon by the fact that "unconscious, irrational forms of guilt prevail in the psychical reality, making communication difficult and reducing a person's ability to social adaptation" (Vasilyeva, Korotkova, 2004).

In terms of law, guilt is a personal attitude (mental, volitional, etc.) of the offender to the results of his action (inaction), which has legal consequences, and liability is the obligation of an individual established by the state to suffer personal and (or) property deprivations, depending on the degree of public danger of the offense.

In the analysis of liability and guilt such categories as will, volition and interest are no less important, because in guilt there is an active volitional moment, which explains clearly the fact that an action (wrongful) generates guilt, and action, in turn, is impossible without the active will and volition of an individual. It seems to us that the will, volition and interest are not simply interconnected, but more, they are interdependent and correlate with the categories of guilt and liability. In addition, the will, being, above all, a psychological category, nevertheless has a certain legal meaning. The concepts of "will" and "interest" are used by the legislator in the wording of a number of articles of codified normative legal acts of Russia (Criminal Code of the Russian Federation of 06/13/1996 N 63-FZ; Code of the Russian Federation on Administrative Offenses of December 30, 2001 N 195-FZ (as amended on January 28, 2022); Civil Code of the Russian Federation (parts one, two, three, four)). We proceed from the fact that the will of an individual in the legal understanding is an internal mental process, the need, realized by a subject, based on a free choice, to achieve (solve) a specific set goal, potentially implying legal consequences for the subject himself. From the point of view of legal science, not only the will as a measure of a person's legal status is important, but perhaps even primarily the expression of will as an act of expressing a person's will outside. Thus, expression of will are those actions that demonstrate the will of the subject outside, so to speak, outside his consciousness - in the material world, and these actions have an actual legally significant nature. The category of interest from the legal point of view is the final desired result (goal) of the process of implementation of the subject's will through his expression of will, which has legal consequences for the subject himself.

In the Russian system of law, legal responsibility is divided into the following types:

- 1) criminal;
- 2) administrative;
- 3) disciplinary;
- 4) civil-legal.

Each type of liability is regulated by the relevant body of law – code (Criminal Code of the Russian Federation of 06/13/1996 N 63-FZ; Code of the Russian Federation on Administrative Offenses of December 30, 2001 N 195-FZ (as amended on January 28, 2022); Civil Code of the Russian Federation (parts one, two, three, four); Labor Code of the Russian Federation of December 30, 2001 N 197-FZ).

Category of legal responsibility is mediated by the categories of offense, one of the elements of which is also guilt. In turn, given the complex nature of the concept of offense, it is formulated by some scientists as a complex phenomenon, which includes a number of factors: economic, psychological, legal, informational, social and biological (Malein, 1985).

3 RESULTS AND DISCUSSIONS

Understanding the guilt of individual subjects of constitutional and legal responsibility should proceed from its unified interpretation in all branches of law and is defined by the author as the mental attitude of a person to the deed. At the same time, analyzes its categories such as essence, content, form, volume and degree.

D.S. Rymarev also considers the features of determining the guilt of collective subjects of constitutional legal responsibility for electoral delicts (Rymarev, 2017).

In the framework of this study, the author tends to determine the guilt of election commissions and election associations based on an objective legal concept. At the same time, he especially emphasizes that such categories as intent, negligence, are unsuitable for establishing their guilt, since there is no need to talk about any mental attitude of the collective subject to the electoral delict, since electoral associations and electoral commissions represent a certain organized associations of citizens with a special legal personality, the latter of which are endowed with certain state or other public powers (Rymarev, 2017). "If an individual is able to make a choice, he bears responsibility for it" (Dubinin, Karpets, Kudryavtsev, 1989). Guilt is manifested in such situations, when an individual had an opportunity to choose among several variants of

behavior, but, nevertheless, an illegal variant was chosen, that, naturally, presupposes liability of the offender.

In this regard, an objective approach dominates in the legal literature, when guilt, regardless of the nature of the subject of responsibility, is a failure by a person to take all measures that depend on him to fulfill constitutional duties. This understanding of guilt does not take into account the differences between individual and collective subjects and in many respects approaches the concept of "illegality".

In addition, it should be pointed out that a person's choice of lawful, or conversely, unlawful options for behavior is assumed to be a priori completely conscious and voluntary.

Basic Theories of Personality Deviancy

As part of the application by the courts of the norms of the electoral legislation governing the grounds for canceling the registration of a candidate (list of candidates), as a rule, the guilt of a person in committing an electoral delict is considered established if there is involvement of the person in the relevant unlawful act, while the form of guilt (intention and negligence), with rare exceptions, is not investigated. But establishing the involvement of a person and his guilt are not the same thing. One should agree with the opinion expressed in the literature that guilt is the mental attitude of the offender to the unlawful act and its consequences, and involvement is participation in the commission of the offense. Therefore, the person involved may not always be guilty. At the same time, it is necessary to make a reservation that in relation to collective subjects (electoral associations) the concept of guilt is different (Rymarev, 2017). Undoubtedly, at any time, any society consists of different strata, social categories. There are, roughly speaking, three main strata: the poor, the middle class, and the rich. When the proportion of poor people prevails in society, it is typical to talk about systemic problems (starting with economic and ending with spiritual and moral) in the state. The presence of middle class in the structure of population at the level of about 30% (this data varies upward or downward) is an indicator of normal development of both society and state. The presence of middle class in the structure of society is important from the point of view that those resources (first of all, financial), which the middle class has at its disposal provide "decent" quality of life, in connection with what, this stratum of society is more social, financial and economic resistant to various kinds of shocks, including economic crises, occurring in the modern world. In contrast, the minimal or almost complete absence of the middle class in

society is a factor of high social tension between the other two classes - the poor and the rich (Shipunova, 2004).

The existing amorphous definition of guilt requires a radical revision. In the construction of the concept of guilt, instead of the terms "consciousness", "understanding", one should include the concept of "personal involvement in the illegal essence of the act" - the relation of the entire personal sphere (consciousness and subconsciousness) to the committed act (Rymarev, 2017). The forms of guilt must be correlated with the structure of the unlawful act. The intentional form of guilt is guilt characterized by the criminal purpose, methods and result of the unlawful act. A careless form of guilt is a guilt characterized by a criminal method and the result of an unlawful act.

The following definition of guilt can be recognized as legally and psychologically correct: guilt is the personal involvement of a capable person in a socially harmful, unlawful act committed by him and its consequences (Rymarev, 2017).

The Criminal Code of the Russian Federation provides for exemption from criminal liability in connection with the active repentance of the accused (Article 75). However, the law does not clearly regulate the concept of "active repentance", only its general features are indicated: surrender, contributing to the disclosure of a crime, compensation for damage caused.

As practice shows, in the majority of cases under investigation, when applying Art. 75 of the Criminal Code of the Russian Federation, facilitating the disclosure of a crime by the accused (suspected) is reduced mainly to giving truthful testimony. In criminal cases, as a rule, there is no information on proving the authenticity of active repentance, the reasons and motives for active repentance are not clarified; the accused (suspect) is not asked to admit his guilt. Meanwhile, without clarification of all these circumstances, the implementation of this article is impossible. From a psychological point of view, active repentance is impossible without an admission of guilt by a person. Recognition of guilt means the mental attitude of a person to what he has done, awareness of the wrongfulness of what he has committed.

Chechen society, which throughout its history has undergone various cataclysms and negative conditions, is a vivid example of the State's application of measures of collective responsibility. From the Caucasian War (from the 1830s to the second half of the 19th century) up to the tragic events of the 1990s (the first and second Chechen wars),

Chechen society (nation, people) was constantly (except for those few periods when there were no wars, famine and devastation) on the brink of survival, sometimes facing the question of its further physical existence as an ethnos. Of course, in such a state of affairs it was common for individuals to take the path of deviant behavior, and it is still a big question how they were guided in doing so. But these isolated incidents should not be a reason for the collective responsibility of an entire people. Chechen history is replete with cases of such responsibility: the burning of entire villages (from Chechen equivalent "evl") during the Caucasian War, the so-called "mass dispossession" and exile in Siberia during the Stalinist repression, and the deportation of Chechens and Ingush to Kazakhstan and Kyrgyzstan during the Second World War, when some 50,000 Vainakhs were serving their country at the frontlines of this war. This unjust attitude of the authorities during that period also contributed to the deviant behavior of certain members of the population.

The Chechen nation has literally "passed through" the theory of stigmatization in recent times because of the tragic events of the 1990s (the first and second Chechen wars). The new generation of people who have grown up on the ruins of a ruined but unbroken nation continues to reap the fruits of this "label" attitude towards an entire nation. For example, if we take statistical data on the level of crime in one of the regions of Russia - the North Caucasian Federal District, in particular, in Stavropol Krai, as the administrative center of this federal region, they did not contradict the indicators of the dynamics of crime mentioned above in the whole of Russia. So, if we turn to statistics figures, "in 1993 in Stavropol Krai 36 623 crimes were registered, in 1999 - 48 214, i.e. the growth in percentage ratio to the crime level of 1993 was 131.6%; if in 1994 the number of crimes per 10 thousand population was 131.4, in 1999 - 179.7" (Vanichkin, 2004).

Beginning in 2014 and continuing through 2018, there has been a downward trend in the crime rate in Russia. Thus, according to data from the official website of the Unified Interagency Information and Statistical System (EMISS) in Russia in 2014 for every 100 thousand people the crime rate was 1500, 2, and as of 2018 this figure was 1355, 8 (a decrease of 9.6%). If we take the statistics for the region of the North Caucasus Federal District, we get the following data: in 2014, the crime rate was 726.7 for every 100 thousand people, and for the period of 2018 this indicator was already 712.4, that is, we record a relatively small decrease in the crime rate in the territory of the North Caucasus Federal District by

1.9%. And finally, if we turn to the data on the administrative and geographical center of the North Caucasian Federal District – Stavropol Region, they look as follows: if in 2014 the crime rate per 100 thousand people was 1197.9, then in 2018 this indicator was 1153.4, that is, we record a decrease by 3.7 % (Official statistics on the crime rate in the Russian Federation).

These statistics show that the crime rate changes in a wave-like manner depending on the domestic and foreign situation: in the years of various cataclysms (financial crisis, political crisis, local conflicts, etc.) the crime rate tends to rise and, vice versa, in the years of "calm" the number of crimes registered annually also decreases (note: in these statistical calculations the so-called "latent crime" is not taken into account, because there are no reliable data on the number of crimes registered in Russia). Taking into account the difficult economic situation (both in the domestic and foreign arena), the still ongoing global crisis (including the crisis of the Russian economy under the pressure of international sanctions), taking into account the ongoing pandemic coronavirus, we can predict that the crime rate in Russia, at least in the near future, will tend to grow back.

4 CONCLUSIONS

The analysis of the categories of responsibility and guilt allows us to draw a number of conclusions of the following nature. In a situation where there is a fact of illegal behavior (act, deed), it is typical to talk about the implementation of liability measures. In other words, the reason for the implementation of measures of legal responsibility is the behavior of the subject, which is deviant, despite the fact that he had an alternative, a choice of behavior. Any choice presupposes further action, that is, active volitional actions of the subject aimed at achieving the goal (interest). Volitional actions are mediated by the internal attitudes of the individual, his life principles, interests, desires and necessity. Thus, the prerequisite for behavior that fits into the legal field is his internal, moral constitution, his inner self, which has been formed to the extent that it is a regulator of mental, and on the basis of mental, also practical, activity of the individual. For the practical activity of a person is the result of reflection of his mental processes.

And finally, the model of human behavior in society always assumes the possibility of choice. Meanwhile, such an alternative should be mediated by the factor of free will (consciousness, will and interest), that is, the choice should occur consciously

and voluntarily. And if, under all these factors and conditions, a person allows and implements a variant that violates rights, a model of behavior, it is characteristic to talk about the deviant behavior of the subject, guilt and the application of liability measures to him, including legal ones.

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