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VICTIMOLOGY OF INTERGOVERNMENTAL AGGRESSION: THEORETICAL AND LEGAL APPROACH

From 4 a.m. on 24 February 2022, when the Russian Federation's armed attack against Ukraine started, to 24:00 midnight on 9 June 2022 (local time), the Office of the UN High Commissioner for Human Rights (OHCHR) recorded 9,585 civilian casualties in the country: 4,339 killed and 5,246 injured. This included: a total of 4,339 killed (1,646 men, 1,098 women, 102 girls, and 105 boys, as well as 67 children and 1,321 adults whose sex is yet unknown); a total of 5,246 injured (1,073 men, 730 women, 120 girls, and 151 boys, as well as 172 children and 3,000 adults whose sex is yet unknown [1]. It is estimated that since 2014 before February 2022, the conflict between Russia and Ukraine resulted in more than 40 000 casualties. It has also been reported earlier that as of 2021, more than 3300 civilians lost their lives because of the conflict and the number of injured civilians exceeds 7000. By the way, due to Crisis group analysis there was no unified source for casualties resulting from this conflict. While international organisations provided concrete, triangulated data on civilian casualties and the Ukrainian government issued detailed statements about its reported military losses, statements from de facto officials have been patchy. In many cases, Crisis Group has sought to triangulate data using social media posts or to gather more information through communications with private citizens [2].

The problem of modern victimology consists of the idea of uniting international and national means of modern criminal justice to protect victims of crime and abuse of power on individual and collective level. The reports of ongoing extrajudicial and military killings of civilians, concepts of crime of aggression and its consequences should be analyzed also from legal aspects of the humanitarian and economic crisis and possibilities of enjoyment of human rights.

What does the state of the victim in international and domestic law mean? Does the state should be concerned as international crime victim? Since Arie Friberg's concepts there are not so much works highlighting this theoretical and practical lacuna [3]. Calling international community to continue to provide humanitarian support and implement new sanctions against aggressor means not only to help ordinary citizens but to the state solely.

Thus, the interest of the international community is not only to ensure that individual victims of international crimes obtain justice and reparations and perpetrators of atrocities fair trial and just sentence, but to constitute

a state as a collective victim in comparison with the UN Declaration of Basic principles of Justice for victims of crime and abuse of power. Due to it, "victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss, or substantial impairment of their fundamental rights, through acts or omissions that do not yet constitute violations of national criminal laws but of internationally [4].

International and national criminal law is a fundamental tool to protect human rights. New hybrid war challenges need to understand how global and regional imbalances and conflicts affected the Rule of Law. To understand how stable Criminal legal form and Treatment activity must be in a dissonance with developing public and social relations and processes, one should defy social control schemes from the field of international society, state, perpetrator, victim, and civil society attitudes.

It is the fact that the diversification of criminal law enforcement understanding at the auspices of civil society cognitive mood, unifying sustainable or global development, has a chance to be resulted in a situation when state or individual assumes the right to abuse opponents, forming armed groups, with a tolerance of local restrictions on the freedom of movement that, as a basis for the right to revolt during the revolution, undermining the idea of the legitimacy of power and wide spreading corruptive practices in the transitive development period.

Global and regional, political, social, and cultural imbalances and conflicts, communication stuffing affecting the Rule of Law, disorganize it and create a situation where essentially stable Criminal legal form and victimological redress should be in a dissonance with developing public and social relations and processes. The notion of criminal law and victims' treatment differs at the levels of citizens, media, social groups and networks and law enforcement officials. Moreover, it differs between victims and perpetrators, civil society and the state, media, and social networks at post-truth society.

The idea to share is whether we must develop on abovementioned background a theoretical model of international criminal justice from victimological perspectives. The concept is quite simple: criminal justice shows the transition from absolute forms of public-law relationships to postmodern approach of nowadays with holistic system that essentially based on human rights primacy concept and basic human values landscape protection ideology in local and international level.

"Justice" was identified with the understanding of truth and justice. Now this extends to post truth concept of misuse of law erosive interpretation. Moreover, it gives theoretical background to interstates and mass misuses and abuses of Criminal law reflecting aggression, hybrid attacks, corruptive practices and political interests, peoples' attitudes, communicative and religion values a national and international levels of interaction. In this regard, modern victimology is a tool to enforce criminal justice policy shift from obsolete forms of social relationships to the new legal framework of transnational public law.

It is more dynamic and flexible; it is in constantly change and contributes to breaking the legal forms and outdated stereotypes at the same time. Unity and sovereignty mode is changed to the legality of International Criminal law virtual relationships, where the production of certain types of Criminal offenses is given to international society's universal jurisdiction scheme. However, the last creates the possibility of non-governmental transnational authorities and other supra-national actors influence on local legislative level by protection of their own interests (like proposed ad hoc tribunal for Putin`s aggression).

Thus, criminal responsibility and victims` compensation schemes on domestic and international level constitute mutual rights and obligations between state (legality and justice), offender (punishment), victims (fair treatment) and third persons (cognitive control) on crime commission. Mutual rights mean that one should construct criminal norms to effectively modify forbidden human behavior only respecting all actors` needs.

This theoretical methodology needs to carry out:

1. Formulating Human rights oriented theoretical approach of victimology means (concepts of legality, crime, and punishment regarding state of the victim on domestic, supranational, and international level).

2. Structural analysis of international, state, social, communicative, and cognitive approach to victims of aggression and international crimes common indicators.

3. Formulating the Academic Matrix as a tool for collective and individual victims` treatment (dignity, sanctions, reparations, restitution, and compensation, right to self-destruction and self-defense).

Therefore, international crime victim status and rights should be analyzed, interpreted, and constructed from the point of view of international societies, governments, collective actors, local experts, law obedient citizens, law enforcement professionals and judiciary and perpetrators. We argue that complex holistic approach based on mutual recognition of all parties` rights and obligations should give positive effort in combatting international and transnational crime and new law constructing as the result of new security paradigms based on internationalization of domestic laws. The shift for criminalizing non obeying with sanctions on the EU level is a strict argument for the abovenamed thesis [5].

It seems that we have not to make a choice between the law in force, the law in media, the law in minds, and the law in communications, but to find out a common portrait of international crime victim model through modern conditions of aggressive war in UA and describe and implement new rules regarding the usage of universal principle of justice for collective victims and societies too [6].

That practice should be reflected as in the notion crime of genocide`s corpus delicti at special construction of collective victim`s notion in General part of Draft Criminal code of Ukraine [7].

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Ключові слова: агресія, геноцид, жертва злочину, колективна жертва, віктимологія, кримінальне право, поводження.

Key words: aggression, genocide, victim of crime, collective victim, victimology, criminal law, treatment.

МИРОШНИЧЕНКО НАТАЛІЯ АНАТОЛІЇВНА

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ОБСТАВИНИ, ЩО ВИКЛЮЧАЮТЬ КРИМІНАЛЬНУ ПРОТИПРАВНІСТЬ ДІЯННЯ

У розділі восьмому Загальної частини Кримінального кодексу України передбачені обставини, що виключають кримінальну протиправність діяння. Це правомірні дії зовнішньо схожі з кримінальними правопору-