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The problems of studying of attitude to life and death in juridical psychology

The article is devoted to the analysis of psychological and legal aspects of the existential and humanistic problematics. It is shown that now the problems of attitude to life and death in juridical psychology are mainly considered in connection with needs of practice. Meanwhile studying of these problems seems very actual due to the necessity of knowledge of the main regularities of formation of the person as a highly organized being, moral and ethical basis of his/her existence.

Keywords: attitude to life and death, meaning of life, murder, suicide, euthanasia.

The existential problems of life and death have always excited mankind. However, long time this problematics was considered within the limits of philosophical, ethical and religious concepts. Psychological studying of this problematics has begun rather recently.

The psychological interest to the existential problematics is defined by the personal-individualized and deeply intimate character of the person's attitude to life and death. Not casually, the discussion of these problems was initially begun in a context of the psychological analysis of the problems of human existence (R. May, 2004), meaning of life (V. Frankl, 1990), that is the problems connected with understanding of a human life problem.

In the Russian psychological science the sense problematics is minutely developed in the works of L.S. Vygotsky, S.L. Rubenstein, in the paradigm of the activity sense regulation (B.S. Bratus, I.A. Vasiliev, F.E. Vasilyuk, B.V. Zeigarnik, V.A. Ivannikov, D.A. Leontiev, E.V. Eidman) and some other modern approaches. On the whole, it is necessary to note that at the present stage there is a tendency to the integrated consideration of the concepts of life and death in a context of the integral experience or the person's life. Thus in the psychological study of the problems of attitude to life and death there dominates the existential and humanistic approach, within which the subject's solution of these problems is considered as a positive factor, precondition and necessary condition of personal growth (R. Assagioli, J. Budgental, T. and E. Yeomans, A. Maslow, R. May, J. Rainwater, V. Frankl, I. Yalom, etc.). Meanwhile mainly the researches available in the scientific psychological literature concern the problem of attitude to own death and the death of a person's near and dear.

It is different with juridical psychology. First of all, it is necessary to note that psychological-legal researches of the existential problematics have an applied charac-



ter, seldom rising to a level of theoretical and methodological generalizations all the more. It is possible to believe that the existing situation is a manifestation of a general crisis of the methodology of juridical psychology.

For a long time juridical psychology has developed in the depths of juridical science and practice. As a result the conceptual schemes of the legal theory, criminal and legal theory and criminology formed a theoretical base of a concrete practice of psychological-legal researches for a long time. Even former division of judicial psychology into the General and Special parts had a distinct imprint of the criminal and legal tradition and didn't reflect the specifics of its subject. In the works on judicial psychology, both theoretical and applied, there is a tendency of the authors' adherence to the legislator's position. The majority of psychological-legal researches are focused on the explanation of the already enacted laws and the interpretation, with reference to the right, of the concepts psychological in fact, or having the psychological content (personality, guilt, motive, will, minor, etc.). A lack of basic researches in the field of juridical psychology is explained by the aspiration to ground post factum the results of lawmaking which was carried out, as a rule, without the opinion of specialists-psychologists.

All these in full belong to studying of the existential problematics. As a matter of fact, the unique developed concept of meaning of life with the reference to the criminal psychology problematics is the value-standard theory of A.R. Ratinov (1979). The author considers the value-standard sphere of the criminal personality through its system organization. One of the most essential points of his concept is a personality representation as a value-standard system having difficult multidimensional dynamic character [4, p. 73].

The author considers world outlook as a basic nuclear formation of personality. World outlook inclusion in the structures of personality is traditional in native psychology. However its recognition as an ideological basis, a personality pivot is more often limited by world outlook understanding as a system of opinions, views of moral-political and natural-scientific content. A.R. Ratinov suggests to consider world outlook in indissoluble unity of its three temporal projections: the past, the present, the future, distinguishing in its structure world contemplation, world understanding, perception of the world, and world creation (as own life activity planning, definition of its sense and prospects). In his opinion, "in a situation which is beyond everyday life, he/she not only solves specific problems, but more or less consciously (and sometimes mechanically) asks questions of different "philosophical" forms, "Who am I?", "What am I living for?", "What am I aspiring for?", "What is the sense of everything that happens to me?" An answer to these questions becomes a part of his/her world outlook, forms an operational life concept, philosophy of everyday life in which the value moment prevails" [4, P. 77]. Owing to this fact he considers the meaning of life as a concept covering the subject's relations to self and to various spheres of existential human values: work and material benefits, public activities, knowledge, entertainments, esthetic pleasures, love and friendship, family etc.



Thus the meaning of life, as well as the system of values reflected in it, is a hierarchically organized and dynamic formation. For the subject personal values can essentially differ by the importance and organicity degree, stability and variability, intimacy and depth of acquisition, width and generality, and the main thing is that they are differently combined, coexist or conflict and anyway they are integrated in the value system.

As Professor A.R. Ratinov confirms, "the distinctions in the meaning of life among different people doesn't consist in that someone appreciates something, and the others resolutely reject the same. People are people, and everybody recognize base universal values, but they prefer them differently. Probably, the relief of the value-standard system in various social environments and groups should possess a certain specifics among different individuals at all its community" [4, P. 79]. Numerous works of the group of researcher of the All-Russian scientific research institute of the public prosecutor's office of the Russian Federation, leading by Professor A.R. Ratinov, are devoted to researches of the meaning of life, specific accents and preferences, in his understanding, of different categories of criminals.

In recent years there were many applied researches of a substantial component of the meaning of life and sense of life orientations. At the same time it is necessary to note an obvious lack of the works devoted to studying of an affective-value component of the meaning of life.

Active development of the thanatological problematics has begun in psychology only in the second half of the XX century. Death is considered as life continuation; there is a tendency to the increasing integration of the concepts of life and death into the integral experience of personality and recognition of the importance of this experience for personal growth and self-actualization. It is considered that studying of representations and attitudes concerning death can also illuminate people's attitudes in the relation to own life and its main values.

For juridical psychology the problems of death and relation to it, on the contrary, are initial, and their treatment is less unequivocal. Thanatological problems are considered by juridical psychology within the limits of the research of three problem directions: at studying of the personality of violent criminals, and in particular murderers, in researches of the reasons and motives of suicidal behavior and in a context of psychological-legal problems of euthanasia.

The beginning of these researches was connected with the social order of the necessity of humanization of criminal law and the problems of the criminal personality studying. In the history of juridical psychology for the first time the problem of attitude to death was stated by the follower of C. Lombroso, an Italian lawyer Enrico Ferri. In 1888, considering the personality structure of the anthropological type of the murderer, as one of characteristics, E. Ferri has distinguished a mental (or moral) insensibility which is shown in indifference to sufferings and death that is found in the relation to the victim, friends and accomplices and, at last, even to self. In his opinion, the mental insensibility is a consequence of the physiological insensibility which in



turn is determined by anatomic and physiological anomalies of an organism and can be established by means of objective methods.

It is necessary to notice that despite a great number of the works devoted to the violent criminal personality, and in particular, murderers (S.N. Abeltsev, V.N. Kudryavtsev, A.S. Mikhlin, V.F. Pirozhkov, E.A. Pisarevskaya, etc.), the existential aspects of this problematic perspective were considered within the limits of the criminal psychology and criminology obviously insufficiently. In the concepts available in the scientific literature there are found distinct influences of Freudianism and neo-Freudianism.

It is known that Z. Freud wasn't especially interested in crime problems; therefore the criminal aggression remained of his field of vision. However, he postulated the existence of the person's unconscious desire of death which he connected with aspirations to destruction and self-destruction. Within the model of the classical psychoanalysis of Z. Freud Life constantly struggles with Death. Comparing the modern person to primitive people, to their attitude to another's death, Z. Freud argued that we "are murderers such as our ancestors were" [7, p. 184].

The greater influence on views of native criminologists was exerted by E. Fromm's conception (1994). As one of forms of the person's "unproductive orientation of character" he distinguished necrophilia which is understood as a thirst for destruction, aspiration to make life mechanical, controllable, numb, as opposed to biophilia – love to everything alive.

At the heart of necrophilia there is an escape mechanism of a destructivism type. Unlike sadism directed on strengthening of an individual by domination over another, destructivism is directed on elimination of any potential threat from the outside. E. Fromm argues that these are the people who recruit as executioners, terrorists, torturers. He attributes murderers to this category of people.

E. Fromm believed that necrophilia as a phenomenon of mental pathology acts as an inevitable consequence of undevelopment, psychical "disability" and as the result of the un-lived life. In his opinion if the person "... can't break away from own narcissism and constantly feels own isolation and purposelessness, the only way to suppress this intolerable feeling of purposelessness and some "vital impotence" is to assert self at any cost, at least at the cost of barbarous destruction of life. For commission of an act of vandalism it is required neither special diligence, nor intellect, patience; the destroyer needs only strong muscles, a knife or a revolver..." [8].

At the same time, as he believes, there are no rigid bounds between necrophilic and a biophilic orientation: each individual is a complex totality, a combination of the features being in a concrete combination; the quantity of such combinations actually coincides with the number of individuals.

Completely necrophilic characters are met rather seldom; such people should be considered as gravely sick; it is necessary to look for genetic background of this pathology. The majority of people manifest a mix of biophilic inclinations and necrophilic tendencies, and the last are rather strong to cause the internal conflict of personality.

Thus, for example, Y.M. Antonyan (1997) distinguishes necrophilia as one of causes



of the murder. Unlike E. Fromm, who excluded a sexual sense of this word, Y.M. Antonyan considers necrophilia as an uncontrollable attraction to death, including a pathological sexual attraction.

Considering the murder psychology, he writes, "Murder is a denial of life and disgust at it; it is fullest embodiment of hatred, very often addressless hatred, hatred in general, hatred of everyone, and the more people or social system are estranged from constructive values the stronger it is" [1, p. 84].

According to E.G. Samovichev (2002), in the consciousness of the overwhelming number of people the problem of ontological bases, specifics of their "being" status isn't reflected. The confidence of the majority in the right to existence proves to be true already by this fact. At the same time, as the author believes, criminals-murderers represent a category of people to which the right to own existence isn't obvious, and is proved only by the fact of their criminal killing of another person. As E.G. Samovichev writes, "murderers show an absolutely specific way of the person's existence at the heart of which there is an absence subjective and psychological definiteness of this fact and, moreover, the right to existence" [5, p. 59]. And this ontological status of personality has a powerful motivating potential.

The author argues that "the murder has no external motivation; it can't be justified by any external circumstances (though these almost always can be found). It has purely subjective motivation, which essence is not in achievement of any concrete subject result, but in overcoming of own "unnatural" stand in life" [5, p. 59]. Thus, according to the author, in the consciousness of murderers the value of own life proves to be true by the other person's death.

The empirical research of the attitude to death of the persons condemned of various crimes, carried out by A.A. Bakanova (1999), seems very interesting. She believes that attitude to life and death represents a system, the main emotional and rational components of which are: a degree of acceptance of life and death, ontological safety, acceptance of self, sense vision, responsibility, aspiration for growth, idea of death as a transition to another condition or as an absolute end. According to a various correlation of rational and emotional components of attitude to life and death in critical situations there are eight life strategies of coping with them: "Aspiration for growth", "Search of the meaning of life", "Love for life", "Fear of life", "Life capture", "Fear of changes", "Self-abasement" and "Hedonism". This research represents a great interest undoubtedly. However, her sample included the condemned of violent and nonviolent crimes and that doesn't allow to define the specifics of the relation of the condemned to these existential problems, connected with their personal experience of death.

One more interesting research is S.V. Kovalenko's work who has studied the attitude to death of the teenagers who committed murders, but owing to infancy weren't held criminally liable. In her research it is shown that the minors who committed homicide delicts are characterized by a specific content of ideas of death in comparison with contemporaries, within which limits the facilitated acceptance of the other's person death is combined with avoiding of appraisal and/or denial of the probability of



own death, and the expressiveness of the affective-value component of attitude to death that is manifested as a cognitive-affective concern over death both at a level of fear of death and at a level of tanatic anxiety.

One more direction of studying of attitude to death in a context of psychological-legal problems is a problem of euthanasia admissibility. The term "euthanasia" (good dying) was offered for the definition of "easy death" by the English philosopher Francis Bacon in the XVII century. The problem of the possibility of faster death of the incurable for the purpose of his/her protection from intolerable sufferings (exclusively when the patient asked about it) was treated by him as the right to freedom to choose. The modern definition of the term "euthanasia" was given by the Congregatio pro Doctrina Fidei in "The declaration on euthanasia" from May 5, 1980. "Euthanasia is understood as any action or, on the contrary, inaction which, in its essence or intention, leads to the death, designated for elimination of pain and suffering". That is in its direct sense euthanasia is a premeditated murder by means of a method causing the least pain and sufferings, committed "out of pity" with a view to determine intolerable sufferings, or to avoid difficulties of life which is considered as "inhuman", "not worthy of the human".

It is necessary to notice that this problematic includes two main aspects: a problem of the person's right to voluntary departure and a problem of the attitude to another's death, the problem of the admissibility of murder of the other person (may be out of the best motives). In the literature devoted to the problems of euthanasia, the most discussed is the first problem – the person's right to voluntary departure. Unfortunately, there are not enough works devoted to euthanasia as a murder on compassionate grounds. Meanwhile, the committed murder, even out of the most "noble" motive, should influence the murderer's personality. The psychological-legal and moral aspects of this problem demand independent studying.

And, at last, the third direction of thanatological problems in juridical psychology is connected with studying of psychological-legal aspects of suicide behavior. Within the limits of this problematic there prevail the researches directed on explanation of the methodology of legal-psychological examinations on criminal cases on suicides and essays suicide. As a result the majority of research in this direction is focused on the practice of legal-psychological examinations and seldom reaches rather a high level of theoretical generalizations.

Thus, the theoretical analysis of the literature shows that within the limits of juridical psychology the researches of the existential problematic have mainly an applied character, seldom rising to a level of theoretical and never mind methodological generalizations.

Within the frameworks of the relation to death in the scientific literature the problems connected with own death and bereavement of the people near to the subject are mainly analyzed. At the same time it is necessary to note that there is an obvious deficiency of the works devoted to the attitude to death of the people causing it, both in the scientific literature on the whole and in the criminal and psychological literature



in particular. It seems that this is the direction to discover new prospects of studying of the problem of the criminal personality.

References

1. Antonyan Y.M. The psychology of murder. – M.: Yurist, 1997. – 304 p.
2. Bakanova A.A. Attitude to life and death in critical life situations / Abstract, dissertation, Candidate of Psychological Science. – SPb., 2000. – 22 p.
3. Kovalenko S.V. The attitude to life and death of the teenagers committed homicide actions: Abstract, dissertation, Candidate of Psychological Science: 19.00.06. – Rostov-on-Don: SFU, 2007. – 20 p.
4. Ratinov A.R. The psychology of the criminal personality. Value-standard approach // The criminal personality as an object of psychological research. – M., 1979. – P. 3–33.
5. Samovichev E.G. The psychological etiology of the murder // Psychological Journal. – 2002. – V. 23. – # 5. – P. 49–59.
6. Ferri E. The psychology of the premeditated murderer // Jurid. Bulletin. – M., 1888. – V. XXIX. – Book 1. – P. 3–30. – Book 2. – P. 167–198.
7. Freud Z. We and death // The psychology of death and dying; Reading book / Col. K.V. Selchenok. – Mn.: Kharvest, 1998. – P. 182–190.
8. Fromm E. The anatomy of human destructiveness: Trans. from English – M.: Respublika, 1994. – 447 p.