Theoretical and practical dimensions of legal responsibility in criminal justice

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Abstract The present academic paper is devoted to analyzing the current challenges in the field of criminal law and justice, with a special emphasis on the development of universal standards of criminal prosecution. The primary purpose of the research is to identify the key aspects and challenges faced by modern criminal justice systems in the context of their adaptation to globalization processes and international standards. Legal responsibility is the cornerstone of national criminal justice, reflecting a set of legal principles that define the boundaries of permissible behavior and establish legal consequences for violating them. Legal responsibility in the context of international criminal justice reflects the globalization of legal norms and the interaction of international and national legal systems. The principles of fair trial enshrined in the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter - the Convention) are an integral part of criminal justice in the member states of the Convention. The basic principles of fair trial relating to criminal prosecution are defined in Article 6 of the Convention. Challenges related to implementing the principles of justice and legality in the international context as well as opportunities for improving the mechanisms of international cooperation in this area actualize the prospects for further studies in this direction. Particular attention is given to the analysis of various legal traditions and approaches to justice that influence the formation of universal standards of criminal justice. A deeper study of the specifics of national systems and their impact on the formation of universal legal norms is important in order to create a more harmonious and fair international justice.

Keywords: legal responsibility, criminal justice, rule of law, principles of law, right to a fair trial

1. Introduction

The present paper is devoted to studying the principles of national and international criminal justice, as well as analyzing the principles of fair trial arising from the Convention for the Protection of Human Rights and Fundamental Freedoms and the case law of the European Court of Human Rights (ECHR). The focus will be on the interaction between national criminal justice systems and international standards, with a particular emphasis on their influence on the development of justice and human rights.

National criminal justice, which is the basis for ensuring law and order in each particular state, plays a fundamental role in determining and applying criminal law provisions. It serves as a guarantor of a fair trial, ensuring the persons’ rights and freedoms involved in criminal proceedings. At the same time, international criminal justice expands the scope of justice by introducing elements of universality and cooperation between states in the fight against crime, especially serious international crimes.

However, fair trial, as defined in the Convention for the Protection of Human Rights and Fundamental Freedoms and the case law of the ECHR, is a key element that maintains a balance between national interests and the protection of fundamental human rights. The principles of fairness, transparency, nondiscrimination and access to justice are fundamental for ensuring trust in the legal system and its effectiveness (Kotsur et al., 2022).

The focus of the present academic paper will be on the key principles underlying national and international criminal proceedings, as well as on a detailed analysis of the fair trial principles derived from European standards and the ECHR case law. Through this analysis, we aim to identify areas of interaction and potential conflict between different justice systems and
to suggest ways to optimize and harmonize national and international approaches related to justice in the interest of human rights protection (Sobko et al., 2022).

The purpose of the present academic paper is to provide a comprehensive analysis of the interaction between national and international criminal justice systems, as well as a detailed study of the principles of fair trial as defined in the Convention for the Protection of Human Rights and Fundamental Freedoms and the case law of the ECHR. Particular attention will be given to the practical application of these theoretical principles in different jurisdictions, with an emphasis on analyzing real cases and situations that reflect the implementation and challenges of these principles in justice. The goal of this academic paper is to identify the “white spots” in the existing research on this subject and provide fresh insights and suggestions for further exploration and improvement of practices in this area.

2. Literature review

The subject matter indicated in the title of the scientific article has attracted the attention of scholars on both sides of the Atlantic Ocean, which is why there is a significant amount of literature devoted to this topic. For instance, the study by A. Ashworth and J. Horder (2013), which provides a fundamental overview of the fundamental principles of criminal law, is worthy of attention. The authors examine in detail the concepts underlying the various forms of criminal liability and their application in justice. This study is significant for understanding the theoretical fundamentals of criminal justice.

Following up on the topic, P. G. Robinson (2008) considers the principles of distributive justice in the context of criminal law in his publication “Distributive Principles of Criminal Law: Who Should be Punished, How Much?” The scholar discusses such issues as who should be punished and to what extent and what limits are based on the rule of law. Robinson analyzes the various aspects of punishment and its fair application, which allows for a deeper understanding of the balance between the public need for justice and individual rights.

Another important contribution to the subject under study is made by J. Kleinfeld (2016), who considers three basic principles of democratic criminal justice in his scientific article “Three Principles of Democratic Criminal Justice”. Kleinfeld focuses on the rights and freedoms of persons involved in criminal proceedings, emphasizing the importance of justice and equality in the face of the law.

G. P. Fletcher and J. D. Ohlin (2005) analyze the fundamental principles of criminal law through the prism of the international case of Darfur in their publication “Reclaiming Fundamental Principles of Criminal Law in the Darfur Case”. Their analysis is crucial for understanding the international aspects of criminal justice and clarifying the issues of jurisdiction and the application of international criminal law.

S. Bronitt and B. McSherry (2017) provide an updated perspective on the basic principles of criminal law in their edition “Principles of Criminal Law 4e”, considering them in terms of modern challenges and changes in the legal sphere. Their contribution is significant in the context of adapting traditional principles to modern realities.

Finally, K. Ambos (1999) explores the general principles of criminal law in the context of the Rome Statute in his article “General Principles of Criminal Law in the Rome Statute”, which is the founding document for the International Criminal Court. K. Ambos analyzes the impact of international standards on national criminal justice systems, providing a valuable contribution to understanding the global perspective of criminal law.

The literature review on the topic “Legal Responsibility and Criminal Justice: Theory and Practice” has been extended with new sources that add depth and diversity to the approaches used to study this topic.

In his work, A. Cornford (2024) analyzes the influence of A. Ashworth’s early study “Principles of Criminal Law” (1991) covered in the book “Leading Works in Criminal Law”. This review makes it possible to assess Ashworth’s long-lasting significance for the development of criminal law, as well as his influence on contemporary research in this field.

Furthermore, J. M. Burchell (2013) expands the understanding of the basic principles of criminal law in his work “Principles of Criminal Law”, paying attention to various jurisdictions and cultural contexts. This study is essential for understanding how the basic principles of criminal law are interpreted and applied in different legal systems.

J. M. Pollock (2018) focuses on the ethical aspects of criminal justice in his book “Ethical Dilemmas and Decisions in Criminal Justice”. This publication reveals the complexity of the moral choices faced by professionals in the field of justice and the importance of ethical considerations in criminal proceedings.

D. A. Andrews and J. Bonta (2010) consider the issue of rehabilitation in the context of criminal justice in their article “Rehabilitating Criminal Justice Policy and Practice”. The authors discuss the role of psychology and public policy in the development of effective strategies for the rehabilitation of prisoners, which is crucial for understanding the restorative aspect of justice.

N. Cross (2009) provides a general introduction to criminal law and criminal justice in his book “Criminal Law & Criminal Justice: an Introduction”, covering a wide range of topics and issues related to these areas. This scientific work is a valuable introduction for those seeking a fundamental understanding of the area.

M. Simmler, G. Canova, and K. Schedler (2023) consider the phenomenon of “smart criminal justice” in their article “Smart Criminal Justice: Phenomena and Normative Requirements”. The authors discuss the latest technologies and their impact on criminal justice, offering perspectives on future regulatory requirements in this area.
M. King (2023) examines the general structure of criminal justice in his publication “The Framework of Criminal Justice”. King provides an analysis of the various components of the justice system and their interaction, which allows for a deeper understanding of its complexity.

K. McCormick (2023) considers critical aspects of the retributive theory of punishment in the context of criminal justice in his commentary “Comments on Gregg Caruso’s Rejecting Retributivism: Free Will, Punishment, and Criminal Justice”. This study has made an important contribution to the debate on the role of free will and punishment in criminal law.

The scientific article “The Concept of Restorative Justice in Handling Crimes in the Criminal Justice System” by N. P. A. Nasution, F. Hamdani, and A. Fauzia (2022) explores the concept of restorative justice in the context of criminal justice. Scholars have examined how restorative justice can be integrated into traditional criminal justice systems, providing alternative approaches to addressing crime.

S. S. Buisman (2022) analyzes the future of EU criminal law in his publication “The Future of EU Substantive Criminal Law: Toward a Uniform Set of Criminalization Principles at the EU Level”, and the author proposes a unified set of criminalization principles at the EU level. This study is highly important for understanding the development of transnational criminal law.

I. I. Azamjonovich (2022) discusses the social-philosophical aspects of crime and punishment in the context of international and national experience in his exploration of “Crime and punishment social philosophical features of international and national experiences”. This scientific article extends the understanding of the interrelation between criminal law and social philosophy.


C. L. Reyes (2023) explored the impact of new technologies, particularly artificial intelligence, language and criminal justice practices, in his research titled “Emerging Technology’s Language Wars: AI and Criminal Justice”. Reyes’s analysis is crucial for understanding how technological advances can influence judicial processes and the legal system.

D. Kurniawan, H. Siswanto, and D. Chairani (2022) consider the principle of prosecutors’ independence in criminal cases for the public interest in Indonesia in their publication “Principle of Prosecutors Independence in Deponering Criminal Cases for Public Interest in Indonesia”. This study emphasizes the importance of the independence of law enforcement authorities in criminal justice.


G. D. Caruso (2022) focuses on skepticism regarding free will in the context of criminal justice in his work “Free Will Skepticism and Criminal Justice”. This research is significant for understanding how contemporary philosophical approaches can influence the comprehension and execution of justice.

Finally, the work of N. Kolomiets, N. Senchenko, O. Petryk, I. Ivankov, O. Osviannikova and D. Heperidze (2023), “International Legal Standards in Crime Prevention”, examines international legal standards in crime prevention. This analysis provides insight into how international norms can influence national strategies in the area of criminal justice and crime prevention.

Another work by G. Petro (2022), “The right to a fair trial. European approaches to defining the meaning of this concept” continues the research, providing a detailed analysis of European approaches to defining the concept of a fair trial. The scholar focuses on how this right is interpreted and applied in different jurisdictions.

Kudrjašova (2023) examines the presumption of innocence in the context of the right to a fair trial in her work “Presumption of Innocence within the Right to a Fair Trial: Implementation and Contradiction to Pre-Trial Detention”, especially in relation to pretrial detention. The author analyzes how this principle is implemented and what contradictions may arise.

S. Atanasov and M. Kovasevic (2022) analyze the interrelation between the right to a fair trial and media coverage in cases considered by the ECHR in their study “The Right to a Fair Trial and Media Coverage in the Case Law of the European Court of Human Rights”. This research is crucial for understanding the impact of the media on justice and the fairness of the process.

A. An (2022) examines how the right to a fair trial is ensured in the documentation of violations through the prism of the provisions of the European Convention on Human Rights in his article “Ensuring the Right to a Fair Trial within the Documentation of the Violation through the Lens of the Provisions of the ECHR”. The author focuses on procedural aspects that are critical to ensuring fairness.

N. E. Dodescu (2022) explores the right to a fair trial and its guarantees in the rule of law in his work “The Right to a Fair Trial and Its Guarantees in the State of Law”. The author analyses the key elements that ensure the fairness of the process in the context of the general principles of the rule of law.
M. Veenbrink (2022) examines the principles of fair trial and procedural justice in the context of EU competition law in his scientific article “Due Process and Fair Trial in EU Competition Law”. This study is significant for understanding the impact of EU legal standards on competition justice.


I. Bantekas (2022) analyzes the principles of direct and superior responsibility in international humanitarian law in his work “Principles of Direct and Superior Responsibility in International Humanitarian Law”. The author reveals the key points concerning liability for international crimes, providing an in-depth understanding of this complex topic.

K. Pouls, I. Gendarme, H. Al-Tayar, J. Bradford, W. Kenton, M. Christiansson and others (2022) studied the assessment of criminal liability in various countries in their scientific article “Criminal Responsibility Assessments: Benchmarking in Different Countries”. This publication provides a unique international overview of practices and standards in the field of assessing criminal liability, which is relevant for the comparative analysis of legal systems.

Summarizing the analytical review presented, it should be emphasized that most studies focus on the theoretical aspects of criminal law and its application in national contexts. The interaction between national and international judicial systems, however, is not well examined, particularly in light of globalization and international duties. Insufficient attention is also given to the practical challenges and issues faced by countries in the process of integrating international criminal justice standards.

3. Methods

The research methodology is determined by its subject matter and is complex in nature. First and foremost, we use doctrinal analysis, which involves analyzing legal doctrines, legislative acts, and court practices. We will consider the national legislation of different countries, international conventions, and precedents of the European Court of Human Rights. This analysis will help identify the basic principles of criminal justice and fairness that apply at different levels. The comparative method is used to assess and compare approaches to criminal justice in different countries. This makes it possible to understand how different legal systems apply the principles of fair criminal justice and what differences and similarities exist between them.

In addition, an empirical study, which may include questionnaires and interviews with lawyers, judges and other experts, will be conducted to assess the actual application of fair trial principles. This will help collect data on real cases and situations related to criminal justice.

4. Results

I. Legal responsibility is the cornerstone of national criminal justice, reflecting a set of legal principles that define the boundaries of permissible behavior and establish legal consequences for violating it. The primary purpose of criminal justice is to ensure legality, justice and protection of the public interest from unlawful acts.

National criminal justice systems are based on fundamental principles that include the rule of law, equality before the law, the presumption of innocence, the right to a fair and public trial, and protection from double persecution (ne bis in idem). Legality implies that actions cannot be recognized as criminal without a clearly established legal basis, and the presumption of innocence guarantees that a person is considered innocent until proven guilty (Ostrovyk et al., 2021).

International treaties play an important role in shaping the principles of national criminal justice. For instance, the International Covenant on Civil and Political Rights and the European Convention on Human Rights enshrine fundamental rights and freedoms, including the right to a fair trial. These documents define minimum standards of fairness to which national systems should aspire (Sobko et al., 2022).

The Constitution of Ukraine enshrines the principles of legality and the equality of everyone under the law and guarantees the right to defense. It plays a crucial role in shaping the legal framework of criminal justice in Ukraine.

The Constitution of the United States, in particular, the Human Rights Amendments (for instance, the Fifth and Sixth Amendments), establishes the framework for a fair criminal trial, including protection against self-incrimination and the right to a jury trial (Demianenko et al., 2021).

Without a single written constitution, the UK is governed by a series of laws, judicial precedents and constitutional conventions that together form the basis of criminal justice. The Magna Carta and other historical instruments contain the basic principles that ensure the protection of human rights and freedoms.

Legal responsibility in the context of national criminal justice is crucial for ensuring justice and legality. The principles enshrined in both national constitutions and international treaties require ongoing reconsideration and adaptation to the changing conditions of the modern world. It is also important not only to establish these standards but also to apply them effectively in the practice of criminal justice (Oliynyk et al., 2022).
II. Legal responsibility in the context of international criminal justice reflects the globalization of legal norms and the interaction of international and national legal systems. This subsection analyzes how international principles and treaties influence the formation and implementation of legal responsibility in national criminal legal systems.

The fundamental principles of international criminal justice are the principles of universality, mutual assistance and justice without borders. These principles provide a framework for international cooperation in the fight against transnational crime, including terrorism, trafficking in persons, drug trafficking and the financing of terrorism.

International treaties, such as the Rome Statute of the International Criminal Court, the UN Convention against Transnational Organized Crime and its additional protocols, establish a legal framework for the prosecution and punishment of those responsible for international crimes. These documents define standards for extradition, mutual legal assistance and the protection of human rights during criminal prosecution (Khatniuk et al., 2023; Zavorordonii et al., 2022).

National legal systems play a crucial role in the implementation of international obligations by integrating international norms into legislation. This includes the adaptation of national laws to ensure compliance with international standards, the establishment of mechanisms for cooperation with international law enforcement and judicial authorities, and the protection of human rights and freedoms during criminal prosecution.

Legal responsibility in international criminal justice requires not only a commitment to international standards but also active participation in international legal cooperation. This involves not only the adoption of international norms but also their effective implementation at the national level with respect to fundamental human rights and freedoms.

III. The principles of fair trial enshrined in the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter the Convention) are an integral part of criminal justice in the member states of the Convention. The fundamental principles of fair trial relating to criminal prosecution are defined in Article 6 of the Convention.

One of the key elements of a fair trial is the presumption of innocence. According to this principle, everyone should be presumed innocent until proven guilty by clear and convincing evidence. This principle is enshrined in Article 6(2) of the Convention and confirmed by numerous judgments of the European Court of Human Rights (ECHR). For instance, in the case of “Salduz v. Turkey” (2008), the ECHR has recognized that the lack of access to a lawyer during interrogation may violate this principle.

According to Article 6(3)(c) of the Convention, everyone has the right to be assisted by a lawyer during criminal charges and trial. This right ensures that the accused has an opportunity to properly defend his or her interests and guarantees the equality of parties in the trial. The ECHR system actively considers cases related to the violation of this right and issues decisions establishing the need to ensure the right to a lawyer.

Article 6(1) of the Convention guarantees the right to a fair and public trial. This principle implies that the judicial process should be open to the public and reinforces the transparency and objectivity of judicial proceedings. In its rulings, the ECHR frequently highlights how crucial this idea is to guaranteeing a fair trial.

The principles of fair trial under the Convention for the Protection of Human Rights and Fundamental Freedoms define the basic norms and standards that must be observed in criminal cases. The practices of the ECHR system and its judgments are important for interpreting these principles and determining their application in specific cases.

5. Discussions

The definition and implementation of criminal liability principles is one of the main topics of discussion. Researchers and human rights defenders discuss what criteria should be used to determine guilt and punishment. The issue of the proportionality of punishment and the possibility of rehabilitation of the accused is the subject of live discussions. Thus, a problematic issue for the scientific community is the problem of developing universal criteria that would regulate the balancing of the defendant’s interests, on the one hand, and society, on the other hand.

Another problematic issue is how universal principles of criminal justice are possible in the context of the challenge of relativism. For instance, some legal systems provide inquisitorial principles of criminal justice, while others are based on the principle of adversarialism. Both approaches have their advantages and disadvantages; however, the experience of developed countries convincingly demonstrates that a modern market economy and the rule of law are possible only under conditions of adversarial criminal proceedings (Dutchak et al., 2020; Ivanchenko et al., 2022).

The boundaries of the application of fair trial standards are a crucial topic of dispute. For instance, in certain legal systems, people are prosecuted on administrative rather than criminal charges; nonetheless, in these situations, the punishment may be proportionate to the offense. The issue is whether, in such cases, the guarantees for those accused of committing a crime should be observed. There is no universal answer to this question, although certain standards have already been developed in the framework of the Council of Europe. For instance, the ECHR proceeds because the concept of criminal prosecution has an autonomous character within the Convention and, therefore, applies to cases where the prosecution is implied not for a crime but for another type of offense if the law provides for a sufficiently severe penalty (Hubanova et al., 2021).

The appropriateness of limiting citizens’ rights and liberties in the fight against terrorism is another hot topic of discussion. Some scholars argue that special standards should be developed for this category of cases, which take into account...
the interests of society in combating this challenge to a greater extent. However, we strongly believe that any derogation from the rule of law poses a dangerous precedent for any modern legal system.

6. Conclusions

The presented analysis highlights several key aspects in the field of criminal law and justice. The emphasis is on the development of universal standards of criminal liability, which face the issue of relativism. This challenge requires searching for common ground in the diversity of national legal systems, taking into account cultural, social and legal differences.

In the context of globalization, terrorism has emerged as a key issue in the application of criminal justice principles. This requires ensuring a delicate balance between the interests of society and the rights of the people accused, especially in terrorism-related cases. Considerable attention should be given to protecting fundamental human rights while ensuring the effectiveness of criminal justice in combating terrorist threats.

Providing sufficient training and guidance to lawyers, judges and law enforcement officers is crucial for addressing the complexities of criminal justice. Particular attention should be given to the development and implementation of educational programs that focus on international standards and practices.

In summary, it is necessary to emphasize the need to strengthen international cooperation to implement common standards in criminal proceedings. This includes cooperation in the field of legislation, exchange of information and experience, and development of joint protocols to combat transnational crimes such as terrorism. Further studies in this area should focus on ensuring the effectiveness and fairness of criminal justice in a global context.

Ethical considerations

Not applicable.

Conflict of Interest

The authors declare no conflicts of interest.

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