

The Role of Public Opprobrium in Adjusting Socio-Legal Behavior

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ABSTRACT: Public opprobrium is a relatively little-discussed factor in the social sphere and in the sphere of law, due to its relativity, the concept of shame and social contempt being variable from one society to another. One of the conclusions reached has been that „the positive evolution and prosperity of society depend on how the legal system is harmonizing with the moral system” (Hotca 2017). In this approach to the application of the law in society, besides specialized and institutionalized means, the social reaction to deviant behaviors in relation to the most important social values, a reaction described by the concept of public opprobrium or moral opprobrium, plays an important role. In this article, we will argue for the importance and utility of public opprobrium in relation to legal norms and social values.

KEYWORDS: opprobrium, society, civil law, morality, human behavior

Public opprobrium (disapproval) is very little discussed factor in the social sphere and in the sphere of law, it due to its relativity, the concept of social shame and contempt vary considerably from one society to another. One of the conclusions reached has been that “the positive evolution and prosperity of society depend on how the legal system is harmonizing with the moral system” (Hotca 2017). Thus, the two systems are not mutually exclusive but complement each other in view of the common purpose they have, namely justice and the good in society. Eugen Erlich “considers that the center of gravity

of the emergence and functioning of law lies not in laws, codes, jurisprudence, but in the very society which, through social groups, creates and applies the law” (Rasfoiesc.com. n.d.). In this approach to the application of the law in society, besides specialized and institutionalized means, the social reaction to deviant behaviors in relation to the most important social values, a reaction described by the concept of public opprobrium or moral opprobrium, plays an important role.

Definition of opprobrium

The etymology of the word opprobrium, first attested in 1656, comes from the Latin word opprobrium (Wiktionary n.d.), as it comes from opprobó, a word composed of ob (against) + probrum (shame, dishonor). Thus, rebellion refers to “contempt, disapproval by which society condemns untrustworthy deeds or people committing such deeds” (Explicative Dictionary of Romanian Language 2009). The meaning of this word, according to Merriam Webster Dictionary (2018), refers to both the act of shame and the public reaction to this deed. In other words, shameful behavior draws the reaction from shame and dishonor from others. In reality who is ashamed? The person doing the shameful act, or those who know about the shameful act committed by that person? Can the two aspects exist without each other? Some believe that we can call public opprobrium any action that is described as shameful by society no matter how the perpetrator of that action feels. Others believe that without a sense of shame in the person who has a deviant behavior towards the values of a society, one cannot really talk about the concept of public opprobrium.

Public Opprobrium and Social Morality

Of course, the question arises “who determines whether or not it is a shame?” And the answer to this question is a difficult one. On the one hand, society has the right to label different behaviors, claiming that demersal is an objective one. On the other hand, others disagree with this appraisal, classifying it as relative, because it bases much on “the eyes of the beholder.” Thus the analysis moves to debates about authority and morality. Ethical systems are differentiated

according to the response to the question of the legitimacy of the legislator, ie who determines what is good and what is bad.

In the case of public opprobrium, the moral authority is given by the society. This is a social ethics, an ethical system known as cultural relativism, and consists in the fact that good and evil can be judged subjectively or relatively only by reference to a particular society, and each society has its own moral system. Cultural relativism claims that there is no ultimate or absolutely good or bad standard for judging a particular culture. Other philosophies define this type of ethics as conventionalism “that says principles are valid if they are accepted by the culture” (Rae 2009, 118). The problem with social morality is that it is in the relative essence, and the relationship to it leads to the relativization of all the elements that rely on it, including the public opprobrium.

According to R.C. Sproul (2018) “from the Judeo-Christian perspective, there is a great difference between legal rights and moral rights. We can accept that a person has the legal right to do something in a given society, but this does not automatically bring the hypothesis that that person has the moral right to do that. Many countries allow people to do what God forbids them to do”. Introducing the concept of God in the discussion of morality leads to the recognition of the existence of another ethical system, the absolute ethical system. Dostoevsky said, „If there is no God then all things are possible”. Absolute ethics is linked to a being, for „if there is no absolute being to decree absolute norms or absolute truth, then there is no absolute foundation for normative ethics. And if there is no absolute rule of ethics, then all things are allowed in the end, because ultimately nothing matters” (Sproul 2018). This leads to a fragmentation of the society torn by „the struggle for the imposition of certain conventions, a battle for the imposition of certain morals, a battle of groups for the imposition of their personal desires as rules of society” (Sproul 2018).

Such as, “unlike most western liberal democracies, American public policy has historically been grounded in moral judgments; notions of fault and personal responsibility have shaped everything from tort law to welfare eligibility. In the Introduction to *Hellfire Nation: The Politics of Sin in American History*, James Morone describes America as “a nation with the soul of a church,” an observation he proceeds to document at considerable length” (Kennedy 2005). Thus, the healthy functioning of the public opprobrium in the socio-legal sphere

is conditioned by the integration of absolute values in society, that nation with the soul of a church, as stated above.

Public opprobrium, regulatory factor of human behavior

Public opprobrium works in society as a constraint, as a form of sanction, and tends to become a norm to regulate socio-legal behavior. Constraint is based primarily on the need for meaning and acceptance by the fact that behaviors contrary to social acceptance lead to exclusivity and blame. There remains only one solution, namely that of conformism. Thus, conformism, based on the existence of a dominant rule, is expressed in the behavior of individuals by accepting the behaviors provided by this norm. Conformity, as observed, takes different meanings, depending on situations that involve distinct mechanisms. They ultimately depend on the characteristics of the source and the conditions in which the subjects must pronounce, that is, the relationship specific to each situation. Conformism corresponds to a situation in which an individual's interaction with a group gives rise to a pressure exerted on him. These pressures are at the level of the influence of judgment (so to judge the same as the group) or of the concordant action with the group.

Public opprobrium acts as a form of sanction, an independent, moral, and cumulative sanction, in the case of the addition of legal sanctions with the moral-social sanction of public atrocities. Thus, "the loss by a criminal of reputation may itself be a form of punishment" (Judicial College of Victoria 2015). Opprobrium attached to offenses varies greatly from one offender and one offense to another, and the way a judge could consider such a problem depends strictly on the judge's decision. Moreover, it can be noticed that there is a direct proportion between the public attitude and the nature and consequences of a crime, in the sense that the more serious the crime is, the greater will be public stigma and opprobrium. For example, an offender who violates a child will undoubtedly be subjected to greater public abuse than an offender violating an adult person. To what extent public attitude can influence the decision to convict a crime, cannot be assured.

In addition to the two roles mentioned above, public attitude tends to have a normative role in the sense that public attitude is based on certain social values, but in time, even if moral values have undergone changes, public opprobrium may turn itself into an "a norm. "Both moral and legal rules are

normative rules that apply prescriptively to social reality. These rules have a necessary and constraining character that must be made aware by any rational being. Moral and legal norms are not the result of simple factual findings, but either they are categorical imperatives (which reason alone prescribes them) or are logically inferred from them” (The relationship between law and ethics in the conception of Mircea Djuvara 2018). So that a norm can be defined as a “standard or scale of categories that define a range of acceptable behaviors and attitudes and a margin of acceptable behavior and non-attitude for members of a social unit” (Sherif 1969).

Conclusion

In conclusion, we must admit that public mood has a regulatory role on socio-legal behavior, but this role varies with society because in some societies the pressure generated by public shame is much higher than in other societies. Moreover, it can be noticed that the essence of public reluctance is given by values in society, defined cultural values or values adopted on the basis of absolutist standards. This leads to the appreciation that public opprobrium is a relativistic moral factor, modifying its status only to the extent that the society embraces absolute ethical standards.

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