

CRIMINALIZATION AS A TOOL FOR CONSOLIDATING SOCIAL VALUES

A CRIMINALIZAÇÃO COMO FERRAMENTA PARA A CONSOLIDAÇÃO DE VALORES SOCIAIS

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Abstract

The interrelation between criminal rule and social reality is no longer limited to the attainment of its classic purposes; it has become a social tool that helps to oppose and make negative values illegal; and to reinforce positive values based on the national morals, religion, and traditions. In this context, contemporary criminal policy has shifted into making behaviors that violate the societal morals, social unity, and economic well-being criminal offenses, not just on the basis of their material injury. The research problem is whether the criminal rule can carry out this role and to what extent it has its boundaries in the face of the new social and cultural changes. Based on this, the study aims at analyzing the models of socially oriented criminalization in the Iraqi laws, comparing it with other legal systems to prove that they succeed in strengthening social values and finally the study offers solutions that can improve the role of criminalization in the area.

Keywords: Social Reality. Criminal Rule. Family Cohesion. Filial Disobedience. Low-Quality Content. Criminalization of Usury. Exploiting Marriage and Divorce Contracts.

Resumo

A inter-relação entre a norma penal e a realidade social não se limita mais à consecução de seus objetivos clássicos; tornou-se uma ferramenta social que contribui para combater e criminalizar valores negativos, bem como para reforçar valores positivos baseados na moral, na religião e nas tradições nacionais. Nesse contexto, a política penal contemporânea passou a tipificar como crimes comportamentos que violam a moral social, a unidade social e o bem-estar econômico, e não apenas com base no dano material causado. O problema de pesquisa é se a norma penal pode desempenhar esse papel e até que ponto ela tem seus limites diante das novas mudanças sociais e culturais. Com base nisso, o estudo visa analisar os modelos de criminalização de orientação social nas leis iraquianas, comparando-os com outros sistemas jurídicos para comprovar que eles conseguem fortalecer os valores sociais e, finalmente, o estudo oferece soluções que podem melhorar o papel da criminalização na área.

Palavras-chave: Realidade Social. Norma Penal. Coesão Familiar. Desobediência Filial. Conteúdo de Baixa Qualidade. Criminalização da Usura. Exploração de Contratos de Casamento e Divórcio.

1 INTRODUCTION

The criminal rule is critical in controlling social behavior not only in determining what is legally forbidden, but also in enhancing moral and social values that the society



is built on. The social aspect of the criminal rule emphasizes the interactive aspect between law and the social reality in which criminalization is aimed at safeguarding the key principles and values that guarantee social integration and stability. The relevance of the current study is explained by the emphasis on the fact that criminalization can be used as an instrument that will strengthen the social values, be it the morality of the people, protection of the family, or the economic stability, or even protection of the social cohesion. Social criminalization is a manifestation of legal cognition of the dangers that could pose a threat to social life and attempts to avert the deviation of behavior that can weaken moral principles or social order.

The major research question is as follows: how far is criminalization a social aspect of defending and strengthening social values, and what are the boundaries of the criminalization in relation to the new or deviant behavior? This central question brings up some secondary questions, such as; the appropriateness of criminal provisions in relation to social change, how the social aspect should influence the extent of criminalization and how to find a balance between the security of social values and the security of individual rights. The study uses a descriptive-analytical research design to study the Iraqi legal texts on the criminalization of actions that are not aligned with the social values, as well as a comparative research design that reviews the chosen experiences of Egyptian and French law, with the aim of explaining how the process of criminalization is adjusted to the social specifics of the society and how it can ensure the effective preservation of the core values. On this ground, the study is separated into two parts, the first deals with the social criminalization of actions violating the moral and social cohesion of society, and the second is dedicated to the social criminalization of actions interfering with the economic security.

2 SECTION ONE: SOCIAL CRIMINALIZATION OF CONDUCT INFRINGING PUBLIC MORALS

There is a growing trend of criminal law against offenses that violate the social morals, due to a consciousness of the gravity of such behavior and its effects on social cohesiveness and stability. This intervention is not limited to an abstract moral aspect, but instead is based on a social viewpoint that identifies what is acceptable versus deviant

behavior, based on the dominant values in society (Khalaf, 2019). In this connection, therefore, the criminal rule can be seen as a weapon of safeguarding the moral order, by making criminal the forms of conduct which subvert this order, be it at the society as a whole or at the family as the nucleus of it. Therefore, the main uses of this method can be discussed in two subsections: the first section will be dedicated to the criminalization of low-quality content and the safeguarding of the morals of the population and the second one will be devoted to the criminalization of filial disobedience and the safeguarding of the family unit.

2.1 Subsection one: criminalization of low-quality content and the protection of public morals

One of the most prevalent and harmful types of behavior that influence the moral life of society is what is often called low-quality content because of the practices it involves that violate the morals or decency of the population, insult their taste, or offend their modesty, regardless of whether the actions take place in the digital domain or through any other medium that is not in line with the existing religiosity and morality of the community (Al-Douri, Without a doubt, electronic media have given a wider stage to the spread of such behavior, considering their nature of being publicly available, easy to circulate, and spread quickly, making their social effect more intense than the traditional media. This requires addressing them with legal means that are in line with their technical specificity, and produce the desired preventative and deterrent effect (Al-Baaj & Saber, 2025).

With this phenomenon on the rise, there has been a need to control it both in the legislative and judicial fronts. Concerning the Iraqi legislation, as of today, there is no particular law that specifically governs the crimes of poor quality content that are executed via electronic means. However, this does not imply that the legislator has neglected to confront conduct that may corrupt public morals. Criminal legislation has traditionally criminalized acts infringing public decency according to their degree of seriousness and social impact. The former Baghdad Penal Code included provisions criminalizing certain forms of such conduct, albeit with a lesser degree of severity, due to the limited influence of publication media at that time. Article (204) of the Baghdad

Penal Code of 1918 (repealed) provided: “Whoever distributes in a public place or gathering, or to a number of persons without specific designation, or displays to public view, or sells or offers for sale in any place any drawing contrary to public morals, or any image, book, or printed material offensive to decency, regardless of the method of printing, shall be punished by imprisonment for a period not exceeding one year or by a fine not exceeding one hundred liras, or by both.” This reflects the Iraqi legislator’s concern with criminalizing conduct that violates societal values and norms, the breach of which leads to undermining social values and stability). By contrast, under the current Penal Code, the legislator has adopted a more stringent approach in addressing such behaviors, reflecting the responsiveness of the criminal rule to evolving forms of social deviance and the attempt to keep pace with them legislatively (Article (403) of the Iraqi Penal Code No. (111) of 1969 (as amended).

Within this context, a problematic issue arises concerning the adequacy of general criminal provisions in addressing emerging forms of low-quality content, particularly since such provisions are often drafted in broad terms that admit multiple interpretations. This necessitates judicial effort to properly classify the facts and align them with the assumptions underlying the criminal rule. Such a situation may result in a deficiency in encompassing certain acts that have negative effects on the moral structure of society (Al-Muhammadi, 2006), thereby requiring a reconsideration of the suitability of these provisions to the specific nature of the emerging phenomenon. This problem is directly linked to the development of technologies used in disseminating low-quality content and the resulting difficulties in judicial prosecution and proof. Cybercrimes are generally classified among offenses that are difficult to prove with ease, which necessitates the concerted efforts of multiple competent authorities to confront them.

In this regard, the Supreme Judicial Council issued Judicial Order No. (711/Office/2021) on 12/8/2021, providing for the formation of a joint committee comprising representatives from the Supreme Judicial Council, the Ministry of Interior, the National Security Service, the Security Media Cell, and the Communications and Media Commission, in addition to the Bar Association and the Artists Syndicate, tasked with monitoring unlawful conduct and violations on social media platforms and certain media outlets, and submitting its recommendations to the competent authorities to take

appropriate legal measures (Judicial Order No. (711/Office/2021), issued by the Supreme Judicial Council of Iraq on 2021).

The question remains as to the adequacy of Article (403) in addressing deviant conduct in the electronic sphere. This question may be answered by reviewing certain Iraqi judicial applications that illustrate the social dimension of the provision, as it has not been confined to the traditional concept of displaying printed materials or images in public places, but has expanded the scope of “display before the public” to include publication via social media platforms. Based on this, a defendant was found guilty of two years of imprisonment on grounds of publishing interviews with girls with indecent implications that violate modesty (Karkh Misdemeanor Court Decision No. 560/J/2023 F2). Elsewhere, the Karkh Misdemeanor Court gave out a two-year sentence to a content creator (N. A. A.) due to publishing images and videos that offend the decency of the masses via digital media (Karkh Misdemeanor Court Decision No. 607/J/2023 F12).

In the case of Egypt, the legislator has made criminal acts that touch on matters of public modesty, whether images or printed materials, and whether the motive is simple possession or trafficking, a general and flexible one. The dynamism of the legislation to changes in technology is observed in Law No. (175) of 2018 on the Combating Information Technology Crimes, which broadened the area of criminalization to cybercrimes that jeopardize societal and family ethics. This law symbolizes a transition between the old system of criminalizing material acts to a more inclusive framework of the entire digital realm, safeguarding family values and social values (Article (25) of the Egyptian Law on Combating Information Technology Crimes No. 175 of 2018).

This has found its way into judicial practice, with the Sahel Criminal Court -Cairo ruling in a case in which two girls were convicted of publishing material via the so-called Tik Tok that criminal activity was proven through publishing material via the internet or any other electronic medium whenever such material has the capability of weakening moral, family or family values, fostering disrespect to parents or weakening chastity, knowledge and religion, whether through audio or

In the case of the French legislator, it has assumed a utilitarian, prevention-type of criminal policy instead of a moral one. Protection of minors has been limited solely to minors, which suggests that the rationale of the provision is not the maintenance of social decency or the moral order of the society, but the protection of a true social interest, i.e.,

the safeguarding of childhood and adolescence against the dangers of being sexually exploited (Article 227-23 of the French Penal Code (1992, in force

There are a number of considerations that justify this approach. To begin with, a minor lacks full legal capacity of will which would enable free and informed choice and, therefore, any exploitation done to them does not have any legal basis. Second, the damage caused by the exploitation of a minor, whether psychological, behavioral or social, is more harsh and extensive than that of an adult. Third, the French criminal policy is in line with its international commitments, especially the Convention on the Rights of the Child of 1989 that provides the protection of children against all types of sexual exploitation (The French legislator approach to criminalizing pornographic acts involving minors is in line with international obligations arising out of the 1989 Convention on the Rights of the Child, which defines a child as any person under the age of eighteen and The States that are the Parties to this Convention are obliged to enact legislative and regulatory provisions to avoid the use of children in pornography or any other activity of a sexual character that endangers the physical or psychological growth of the child. In this connection, the utilitarian policy of the French legislator in Article 227-23 should not be interpreted as the reaction to a strictly moral norm, but as the realization of an international duty in order to avoid real social dangers and protect childhood as the guarantor of the future of society).

In this light, the utilitarian legislative orientation of narrowing the criminalization of pornography to the types of pornography that involve minors is geared to safeguarding the society against the short-term and direct harm of pornography without inherently impairing the sexual freedom of adults unless done with a proven social interest.

2.2 Subsection two: criminalization of filial disobedience and the protection of the family entity

The family relationship between parents and their children is basically based on well established moral principles, which they gain their strength through the foundations of sacred grounds, which are enforced by divine laws, and their nobility in social norms, which command respect and obedience. Nevertheless, any damage to this relationship implies significant social threats that put the existence and integrity of the family under

stress, hence the need to take a significant social and educational reaction to prevent adverse phenomena. Nevertheless, the problem lies in the fact that social and admonitory means often lack effectiveness in addressing this danger (Abdul Hamza, 2017).

At the same time, criminal intervention remains limited in alignment with the principles of criminal policy with a social dimension, which is based on the notion of exceptional intervention of criminal law and the avoidance of its application to every form of behavioral deviation, in order to maintain a balance between the protection of family values and the preservation of individual freedom (Gad, 2005).

Accordingly, a mere breach by children of the duty of respect toward their parents does not constitute a sufficient basis for establishing a specific criminal provision, unless such conduct materializes in the form of a physical assault such as beating, or a serious verbal assault. Such acts are already covered by general penal provisions. This position is confirmed by the approach of both the Iraqi and Egyptian legislators, who have relied on general provisions without introducing specific rules in this regard (Iraqi Penal Code No. 111 of 1969 (as amended), Articles (413, 315, 433, 434), and Egyptian Penal Code No. 37 of 1958 (as amended), Articles (240, 302, 306, 327), which contain general provisions applicable to all individuals.).

While this legislative stance may have been acceptable in light of previous social realities, the significant transformation in social behaviors has generated a pressing need for the enactment of a specific provision consistent with the new reality. This is evidenced in the statement of the Supreme Judicial Council in Iraq in response to the draft law on the criminalization of filial disobedience, wherein it stated: “The issue of filial disobedience has become one of the negative social phenomena that have spread among members of Iraqi society for several reasons, and it calls for serious consideration of the necessity to contain this emerging phenomenon and address it through the formulation of a deliberate and comprehensive legislative framework capable of compelling children to adhere to this great divine obligation of benevolence toward parents. Accordingly, the ideas embodied in the draft amendment constitute a positive step in the right direction toward achieving this objective” (Supreme Judicial Council Letter No. 96/Studies/2021, responding to the letter of the General Secretariat of the Council of Ministers / Legal Department No. (Q/2/2/21198) on 8/8/2021, regarding the draft amendment to the Iraqi Penal Code No. (111) of 1969).

The Iraqi legislator indeed has answered the demands of social reality, and the Penal Code has been changed according to the religious and moral principles. This amendment brought about the criminalization of acts that belong to the purely moral sphere, like shouting, repudiation, abandonment and other such behavior into the criminal justice system thus giving the judiciary wide discretion in characterizing legal acts, at the same time strengthening the moral fabric of society by underscoring the ethical obligations of children to their parents (Article (384/Second) of the Iraqi Penal Code No. 11

It has aspired to answer the transformations happening in the family ethics as far as the Egyptian legislator is concerned. A draft law was proposed that would lead to a wide-ranging criminalization of filial disobedience as may be seen in the explanatory memorandum of the draft which states that the draft was introduced in reaction to a growing social phenomenon, i.e. the increasing cases of filial disobedience in society and the ensuing disturbance of the family bonds and its structure.

The lawmaker has suggested the introduction of a certain provision in the Penal Code that criminalizes all types of filial disobedience, either insult, abuse, or abandonment as well as physical assault, i.e., beating or injury, and then the law imposes a sentence of three to five years of imprisonment, with aggravated punishment in the case of recidivism. The proposal also associates filial disobedience with the offense of bullying as stipulated in Article (309 bis (b)) added by Law No. (189) of 2020 highlighting that a more severe penalty will be imposed when the act is done by a child upon his or her parents. The draft also interconnected filial disobedience with the offense of bullying contained in Article (309 bis (b)) introduced by Law No. (189) of 2020, stressing the fact that a more severe penalty is imposed in case a child commits the act against his or her parents. Procedurally, the draft provides that criminal proceedings should commence when a complaint is submitted by the parents, and should abate when they waive it, considering the special character of family relations and their unique human and social quality. By doing so, the draft includes the safeguarding of parents by a deterrent criminal system but puts in consideration the social aspect of the family unit as the basic unit of the society (Draft Law on Criminalization of Filial Disobedience in Egypt, 2025).

In the case of France, the legislator has not created a separate crime known as filial disobedience; cases of physical or psychological attacks against parents are included in

general law that criminalizes acts of violence, threats, or harassment with penalties aggravated in cases where the victim is an ascendant. This is in line with the French criminal philosophy that limits the area of criminal intervention to actual acts that impact physical or psychological integrity, and the maintenance of the moral obligation of children towards their parents in a social and cultural context not legally enforceable by criminal law (French Penal Code 1992, in force 1994, Articles 222-11, 222-13 and 222-14

3 SECTION TWO: SOCIAL CRIMINALIZATION OF CONDUCT AFFECTING ECONOMIC SECURITY

The social aspect that the criminal rule is supposed to play is linked to the safeguard of the premises of sustainable development and safeguarding of the economic and social balance of the society in a way that ensures a stable environment that encourages growth and prevents the exploitation and financial deviations of vulnerable groups. In this sense, the criminal rule is a tool to establish a balance between the protection of the economic and social order of society and the satisfaction of the daily needs of the individual, by subjecting deviant economic behavior, which goes beyond the boundaries of legitimate rights, to criminal prosecution (Abdullah, 2019). This can be discussed in two subsections: the first on the criminalization of usury, and the second on the take advantage of marriage and divorce contracts as follows:

3.1 Subsection one: criminalization of usury

An excellent example of the application of the social dimension in the criminal rule is Usury, since its negative impacts are not only on the individuals but also on the economic order of the people. It is reflected through the economic exploitation of one party, decrease in economic justice, and establishment of social gaps that pose a threat to social stability. Consequently, the Iraqi legislator has made the interest regulation in the civil sphere legal (Article (171) of the Iraqi Civil Code No. (40) of 1951 (as amended), and criminalized, in the penal sphere, the surpassing of the legally stipulated interest limit,

with harsher punishment in case of recurrence or habitual behavior (Article (465) of the Iraq

Criminal policy has further reinforced this approach through Revolutionary Command Council (dissolved) Resolution No. (68) of 1997, which considered usury a phenomenon threatening the economic and social order. It imposed the confiscation of proceeds derived from the offense, directing part of them to the “Poor Fund,” and allocating percentages to informants, reflecting the legislator’s concern for protecting society, supporting vulnerable groups, and achieving social and economic justice (Paragraph (First) of Revolutionary Command Council (dissolved) Decision No. 68 of 1997).

The judiciary has likewise demonstrated a clear awareness of the social impact of usury. The Supreme Judicial Council directed the Presidency of the Public Prosecution and the Courts of Appeal to accord particular attention to dealings involving usury in the application of the law, with the aim of eliminating the phenomenon and achieving the purpose of punishment (Supreme Judicial Council Circular No. 4809, on 20/10/2024.).

As for the Egyptian legislator, he/she has addressed usurious lending through an explicit provision, stipulating that anyone who exploits the weakness or inclination of another person and lends money at an interest rate exceeding the legal limit shall be punished by a fine not exceeding two hundred pounds. The penalty is further aggravated in the case of recidivism within five years, becoming imprisonment for a term not exceeding two years and a fine not exceeding five hundred pounds, or either of these penalties. Habitual lending at an excessive interest rate is also considered an aggravating circumstance subject to the same legal consequence. (Article (339) of the Egyptian Penal Code No. 58 of 1937 as amended). This legislative position, which in some aspects resembles that of the Iraqi legislator, reveals the Egyptian legislator’s awareness of the social dimension of criminalization. Egyptian judiciary has affirmed that the criminalization of usury is not limited to the protection of individual rights, but rather aims to confront a broader social danger that threatens economic and social stability (Egyptian Court of Cassation Decision in Appeal No. 2040, 2015).

As for France, the expansion of progressive ideas and capitalist freedom has led to a transformation of the theory of usury from a religious offense into an economic value viewed positively, on the basis that lending at interest stimulates the movement of capital

in industry and commerce (Khudhair, 2025). Nevertheless, the French legislator has not left usurious transactions without criminal regulation, as it has criminalized the exceeding of the average interest rate determined by the Bank of France (Article (L314-6) of Law No. 66-1129 of 16 July 1966 on Consumer Protection.).

The law provides that a loan is deemed usurious if the effective interest rate exceeds the average rate of the previous quarter by one-third or more, with the threshold being officially published for each type of loan (real estate, consumer, professional, etc.) (Article (L314-6) of Law No. 66-1129 of 16 July 1966 on Consumer Protection). Any breach of this limit is punishable by imprisonment for up to two years and a fine of up to 300,000 euros, with the possibility of additional measures such as prohibition from exercising the activity or publication of the judgment (Article (L341-50) of Law No. 66-1129 of 16 July 1966 on Consumer Protection). The French judicial tradition shows that the usury has been criminalized and accompanied by extortion or fraud, as the judiciary is concerned with safeguarding the personal rights of consumers and promoting social and economic equilibrium in the country (French Court of Cassation, Criminal Chamber, Case No. 22-83.646, 2022).

The above indicates that the subject of criminalization of usury is the criminalization of values that are pernicious to the economic and social system, be it in the form of safeguarding society as a whole or in the form of safeguarding individual rights; thus, showing the social aspect of criminal provisions in maintaining the order of things. In this view, the lender should not be the only one to be criminalized, as the borrower is also deemed to be an actor in the action, and tougher penalties should be meted on the lender in scenarios where the lender is exploiting the vulnerability and financial conditions of the borrower and lighter penalties given to the latter where the latter is performing the act under necessity. Such considerations imply that the Iraqi legislator needs to revise the corresponding provisions to strike a balance between social interests protection and the provision of individual justice.

3.2 Subsection two: exploitation of marriage and divorce contracts

Marriage and divorce contracts possess a religious and social sanctity due to their direct impact on societal stability. In Iraq, a phenomenon has emerged involving the

exploitation of marriage contracts as a means of laundering illicit funds, through the recording of excessively inflated dowries in violation of local customs, thereby transforming the marriage contract from a legitimate institution into an instrument for achieving financially harmful objectives that affect society. While the provisions of the Anti-Money Laundering and Terrorism Financing Law address the direct financial mechanisms of money laundering, interference with the marriage contract requires special protection, given that it is a contract of a sacred social nature (Anti-Money Laundering and Terrorism Financing Law No. (39) of 2015).

In this context, the Supreme Judicial Council has directed Personal Status Courts to require both parties to the contract to disclose the source of funds in cases of excessively high dowries, and to refer the parties to the Money Laundering Investigation Office if the judge suspects the illegitimacy of the source. This measure reflects judicial awareness of the social dimension of this phenomenon (Supreme Judicial Council Circular No. 515/Office/2025).

As for comparative legislation, there are likewise no provisions criminalizing the exploitation of marriage contracts as an independent offense. In Egypt, it is possible to resort to the provisions of the Anti-Money Laundering Law to address such conduct, but there are no specific rules concerning the monitoring of marriage dowries or requiring spouses to prove the sources of the funds used therein, which leaves the possibility of exploiting high dowries for money laundering without clear legal oversight (Egyptian Anti-Money Laundering Law No. (80) of 2002). In France, there is also no specific regulatory framework governing marriage dowries, leaving a gap similar to that in Egyptian legislation. French law, however, criminalizes all transactions intended to conceal or convert proceeds of crime, and it imposes obligations on financial and legal professionals to report any suspicious transactions (Article (324-1) of the French Penal Code (1992, in force 1994).

As for sham divorce, it refers to a formal divorce obtained to present the legal appearance of termination of the marital relationship while the relationship remains effectively intact. It is sometimes used to obtain financial or social benefits, such as social welfare payments (Khudhair, 2025). The danger of this phenomenon lies in its fraudulent nature, involving deception of the state and the depletion of resources allocated to eligible categories, making it a social and economic issue related to the protection of vulnerable

groups and the sanctity of family contracts (the Iraqi legislator, under the Social Protection Law No. 11 of 2014, grants a divorced woman financial assistance if she has no income; if she has income, she is granted the difference between her income and the assistance amount specified in the schedule annexed to the law). According to Iraqi court records, such cases have risen dramatically with thousands of such cases being registered in 2023 with an average of about nine cases an hour is a significant change in turning sham divorce into a way of evading the applicable laws (Al-Saadi, 1970).

The criminal administration of this phenomenon has a problem, however, by the fact that the recourse is resorted to the rules of forgery or fraud, which do not fully bring into consideration the social aspect of this kind of conduct (Article (290) of the Iraqi Penal Code No. (111) of 1969 as amended). The social component has an economic component through the violation of the systems of social justice and safeguarding the vulnerable population, and a moral one concerning the violation of the values of the society and the sacredness of the marriage and divorce contracts. This necessitates greater accountability of criminals to maintain the social order and protect the societal interest.

4 CONCLUSION

To sum up, this study has proved that the criminal rule is no longer a strict legal structure which is only concerned with the maintenance of social order within its traditional boundaries; it is a dynamic tool that is engaged in the interaction with the social reality and fulfills a dual role comprising of social control and unification of the value system of society. The paper has demonstrated that criminalization in its nature is a symptom of this interaction as no longer should criminalization be judged on the basis of the same criterion of material harm only, but also on the degree of violation of the social values or going against their right direction. Yet, the critical examination of the Iraqi laws shows that the creation of social reality and the criminal instruments absorbed by it are out of sync because most of the regulations are described by their generality and inflexibility and cannot be adjusted to the radical changes that are brought by cultural and technological shifts, especially in the digital field. Furthermore, the fact that even the social motives, e.g. sectarian drivers or economic exploitation, are not regarded as the subject of the law of crime, restricts the effectiveness of the criminalization process in

providing social deterrence and frames its influence into a strictly limited range, which is not commensurate to the magnitude of the phenomenon.

On the plane of economic crimes, it can be seen that the legislator has not yet managed to find the right balance between moral and utilitarian factors, as some of the new practices are not yet explicitly criminalized or guided by indirect regulation, which does not correspond to their actual social character and, as a consequence, weakens the legal guarantee of societal trust and economic equilibrium. In this regard, to make the social aspect effective in criminalization, it is necessary to restructure the criminal policy in an integrative vision that goes beyond the traditional perspective, by introducing the criterion of the social impact of crime as one of the determinants of the criminalization and punishment and by integrating social motives and drivers as aggravating circumstances in the manifestation of their actual threat to the social peace.

It also demands a replacement of general provisions with specific legislation against the new phenomena especially in the digital world, as well as the creation of evidentiary and prosecutorial tools that can be used in their context. Additionally, it is necessary to rebuild the philosophy of punishment as such that it is not confined to deterrence but serves a social reformatory role that considers the effects of crime on social values and is able to help restore social balance, but with the judiciary given discretionary power on the basis of definite objective criteria. Special criminal protection should also be given to certain socially significant relationships and contracts so that they are not exploited as a means of engaging in economic or social deviance and therefore retain their sanctity and the purpose of ensuring that the society remains stable.

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