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FIRST GLIMPSE AT THE RATIONALE AND JUSTIFICATION OF PUNISHMENT IN INTERNATIONAL CRIMINAL LAW

The process of comprehending the essence of the concept of "punishment in international criminal law" is currently being traditionally perceived not only as a rather long-lasting and tremendously thorny endeavour, but also such that is inevitably bound to encounter a whole plethora of extremely complicated and urgent challenges along the entire path. Thus, the first stumbling stone on the way to a coherent and consistent definition of the notion of "punishment in international criminal law" is apparently found in the legal subtleties of the "terminological pluralism" that still persist to the present day.

However even these complexities inexorably fade in light of the question of what exactly should "be at its core", – the issue that in the time J. P. Alexander expressly referred to as "philosophy of punishment" [1, p. 235] and, more than 100 years later, M. C. Bassiouni, by contrast, shrewdly identified as "philosophical considerations on punishment" [2, p. 921]. It is quite remarkable that in outlining the theoretical foundations of the perception of punishment in international criminal law, it seems that a very similar logic was also followed by F. Hassan, who likewise unambiguously emphasized the necessity of considering the question of what lies behind its definition [4, p. 51].

Meanwhile, at a glance, someone might quite reasonably argue that the issue of defining the term "punishment in international criminal law" is literally irrelevant to its philosophical vision as a certain phenomenon even to such an extent that these should be treated in isolation. In fact, as T. McPherson absolutely rightly observes, that is not necessarily the point, as it may only look to be easily separable; but this "appearance of separateness" is rather illusory [6, p. 21]. And furthermore, it is highly noteworthy that H. Oppenheimer also clearly highlights the strong link between such two ambiguous elements, pointing out the expediency of considering philosophical premises when defining the concept of punishment [7, p. 2–4].

Strikingly, this kind of vector of thought eventually leads to at least two relatively novel major trajectories of its own that should be further comprehended: the "rationale" [5, p. 156] and "justification" [3, p. 222] of punishment in international criminal law. Yet again neither are they without some of the specific constraints. Given the existing situation of permanent comparison with national law, the question of whether it is appropriate to use the above-mentioned categories "for the purposes of" international criminal law in their "domestic meaning" is sufficiently acute.

In this regard, it is typically assumed to be differentiated into two main approaches, – those who are rather in favour of such an analogy; and the ones not that much enthusiastic about such a perspective. So, for instance, C. J. M. Safferling suggests that an international criminal system will work better the more it functions by analogy to the domestic system [8, p. 162], which basically means transferring concepts and ideas concerning the rationale and justification of punishment from national law internationally; whereas R. D. Sloane indicates that such an analogy is equivalent to a "bad analogy", and underlines that rationales and justifications for punishment common to national systems of criminal law cannot be transplanted unreflectively to the distinct legal, moral and institutional context of the international criminal law [9, p. 40].

Nevertheless, such a situation has its logical and legible continuation as well. And indeed, as S. Vasiliev quite aptly notices, the understanding of rationale and justification of punishment in international criminal law unavoidably results in the imperative to finding the most "adequate" theory of punishment and reasoned purpose(s) of punishment [10, p. 79].

Therefore, bearing in mind such a significant number of hitherto unresolved problems, it is precisely such an idea that should be further developed.

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ІНФОРМАЦІЙНІ ВИКЛИКИ ГІБРИДНОЇ ВІЙНИ РОСІЇ ПРОТИ УКРАЇНИ

Повномасштабна російсько-українська війна, яка розпочалася 24 лютого 2022 р., є продовженням збройної агресії російської федерації проти України з 2014 р., а глобально – усієї російської політики щодо нашої держави з моменту здобуття незалежності у 1991 р. Сучасний період протистояння характеризується цілим комплексом задіяних засобів та інструментів деструктивного впливу ворога на українське суспільство, політичні інститути, інфраструктуру тощо. Саме відсутність чітких контурів російської агресії актуалізувала поняття «гібридна війна», яке на практиці означає поєднання традиційних військових дій з іншими формами впливу, включаючи кібератаки, інформаційні війни, економічний тиск, використання