

## Basic Phases of Evolution of Group Criminality in Georgia

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The goal of the study criminality is to identify the basic phases (zeroth, initial, transition, highest) and forms (early, random, dualistic, developed) of evolution of group criminality; to determine their genesis based on quantitative group data and inner structure; to study the reasons for the existence of group criminality in terms of the evolutionary approach being established in the developed countries of the world; to define basic directions for fighting against this type of criminality considering both the national peculiarities of our country as well as international experiences. The study suggest the establishment of strategic and conceptual approaches for fighting and preventing criminality from the government and social perspective and is calculated for yielding real results with the activities in this direction. Basic phases and forms of criminality and its group form evolution process established by criminological study on the national level create the ability for corresponding government and social organizations to realize strategic and different complex positive aspects of fighting against criminality, especially, preventing it. © 2022 Bull. Georg. Natl. Acad. Sci.

group-organized criminality, criminality evolution, phases, forms, aggressive separatizm

Modern criminology science recognizes the historically inconstant social, moral and judicial nature of criminality as an occurrence and that criminality is a form of human social behaviour that inhibits the normal functioning and development of society. Therefore, the object of criminological study by narrow and broad definitions is represented by a person's deviant behaviour even in the most serious illegal activities.

The present position, structure and dynamic of criminality make it necessary to conduct widespread, systemic and effective measures and study the problems of criminality in order to prevent it in its

group form [1]. Now the group criminality assumed a special, unusual-for-its-kind social appearance, changing its forms, structure and nature. Its organized form became especially widespread, which puts the governments in front of a rather difficult and formidable problem, as unlike other group forms organized crime feeds on almost every government structural level with its roots, controls the leading branch of the economy and creates values that are unintelligible to the community [2].

In Georgia, in the market economy, two main circumstances became natural stimuli for scientific studies of the organized group criminality.

First, it is the altered criminal nature represented by new forms of organized group criminality;

Second – modern international and national judicial standards, which created the basis for objective criminological analysis of the organized criminality.

Under those circumstances the problem of group criminality goes beyond the borders of considering singular forms due to its complexity. The experience of the developed nations points to this [3], where the focus of the analysis [4] of small groups shifted on a new phase – the consideration of evolution [5] of group criminality [6].

Various forms of group criminality expression have not only specific, but also common causes [7]. Therefore, the lack of complete image of group criminality genesis causes the dissipation of practical activities aimed against criminality, as without complex approach the problem of group criminality leads to subjectivity, to the attitude opposed to understanding group criminality [8].

When fighting group criminality, it is important to not just expose the facts, but also to conduct preventative activities, where a “map” of criminality indicates the reanimation of criminal groups in advance. It is clear that without serious criminological prognosis and planning it is impossible to achieve success. Therefore, criminological study of every form of group criminology represents the conceptual basis for operative and criminal investigative practices [9]. Results and conclusions obtained by studies in these directions have vast political and judicial consequences.

Therefore, first, a stable scientific basis for conducting legislative reforms is being formed, which is considered for perspective, and second, a criterion for the formation of a proper social conception is established. Only the complete investigation of every form of group criminality can provide the ability to determine the analogues in other countries of the world, and extrapolate from that the international standards for fighting group criminality [10].

The goal of the study is to determine the existing basic phases and forms of group criminality and to determine their genesis based on quantitative group data and internal structures; to study the reasons for the existence of group criminality in terms of the evolutionary approach that has been established in the developed countries of the world; to determine the basic directions for fighting against this type of criminality considering both the national properties of our country as well as international experiences.

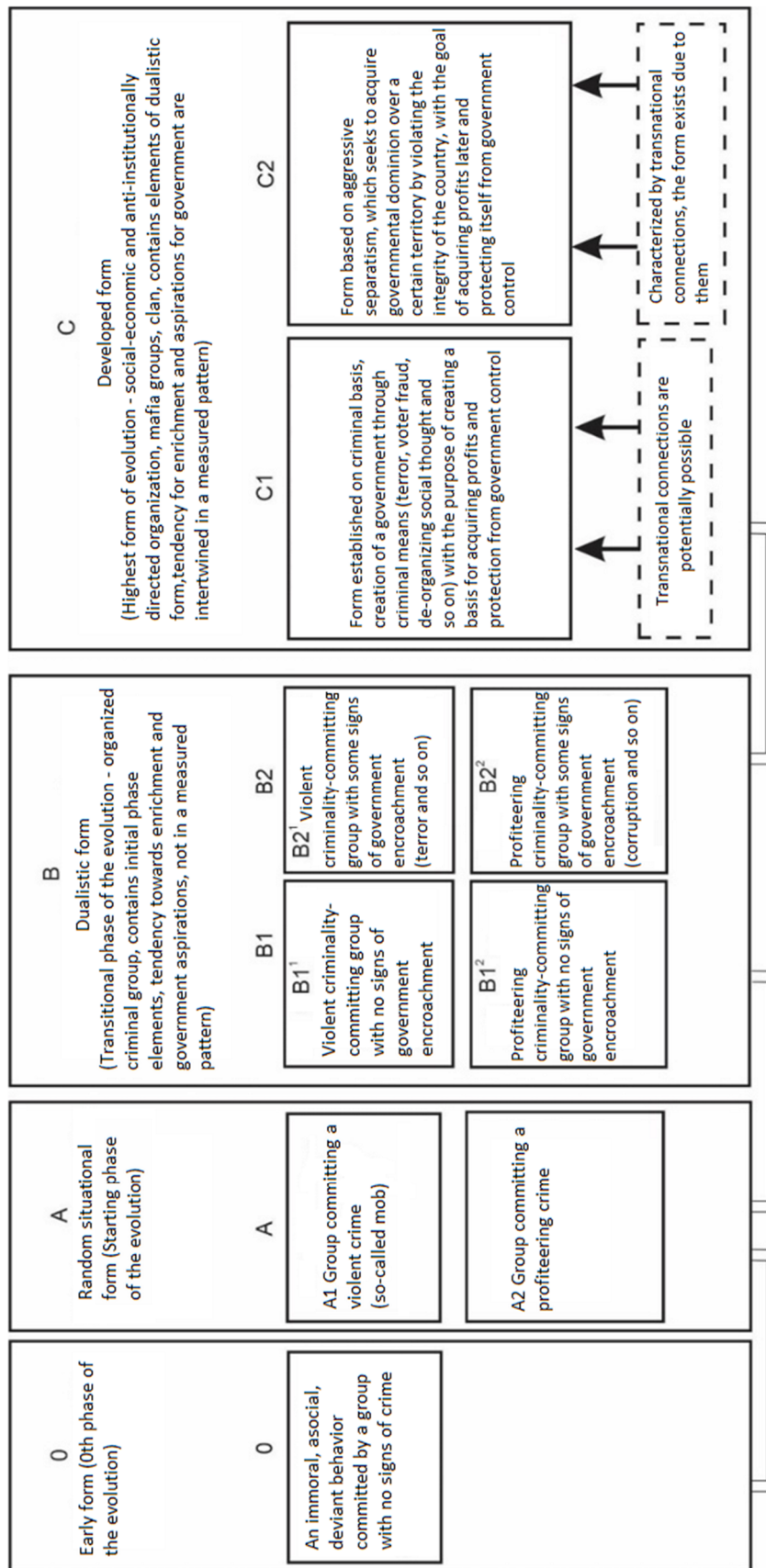
The study serves the establishment of strategic and conceptual approaches for fighting and preventing criminality from the government and social perspective, and is calculated for yielding real results with the activities in this direction.

The research on group criminality in Georgia was conducted by the author in 1996-1997 and 2019-2020 [11]. This research [12] was focused on the criminal law statistics sociology and comparative criminology. Based on this research, with account of typical criminological situation (in Georgia), group criminality phases and forms were described in detail in the table below.

The Table presents the 0<sup>th</sup> phase of group criminality, in its initial “0” form. This is the case when an act that contains immoral, asocial, or, to an extent, deviant criminality risks is committed by a group due to unemployment, intoxication, and other factors. It is characterized by foul language, conflict, insulting and demeaning action, without any signs of criminality, which in most, but not in all cases is a cause and a catalyst for group criminality.

The “A” form of the starting phase of evolution is completely dependent on the situation. Here, we are dealing with a simple form, whose limits are unclear and blurred. The substance is not in the form itself, but outside of it. As can be seen from the Table, we single out the violent “A1” form of group criminality, as well as the profiteering “A2” form. They are called random because the group commits crimes episodically and under the influence of a certain life situation. Such a form is labelled as random-situational by criminologists.

Table. Evolution process of basic phases of group criminality with account of typical criminogenic situation in Georgia



The next transition phase of group criminality evolution is the dualistic “B” form. As the random “A” form, the dualistic “B” form can develop in one of two ways: the way of criminal violence, and the way of criminal profiteering. Here, the focus is on many different kinds of groups that consistently commit crimes (also known as organized crime, with a narrow definition of that phrase), but the elements that we see in the developed forms only episodically appear in this case. Philosophically, this means, that here we have two starting points as if given together: signs of a mob, and signs of an episodically formed group and developed forms. But here, these signs are, for now, still in the embryonic stage, represented by a lack of, or some mild signs of government encroachment.

We single out two types of dualistic forms. “B1” block provides the kinds of group criminality that do not display elements of government encroachment. The dualism system here is realized as two unrelated, completely separate from each other starting points. “B11” – the violent criminality-committing group with no signs of government encroachment, and “B12” – the profiteering criminality-committing group with no signs of government encroachment. On one hand, we are dealing with an organized form and on the other hand, there are still no signs of an organized form: systematically acquiring profit as corruption and government encroachment. If profit is acquired, this only occurs through a violation of criminal law. Also, if we are dealing with the government’s corrupt practices, only the ability to conceal criminal law violations is used.

Unlike the “B1” forms, in the “B2” form, the group does crime regularly, and two starting points are apparent: first, “B21” – the violent criminality-committing group with some signs of government encroachment (terror and so on), and second, “B22” – profiteering criminality-committing group with some signs of government encroachment (corruption and so on). Here, these two starting points seem to be in line, since profits are acquired

through means that are illegal by criminal law – through the forms of direct violence, terror, and banditry. At this point, we would not be able to observe the group’s large-scale operations yet, which are occupied with a crime like a business, and which has corrupt connections, but in the case of the second starting point, the element of government encroachment can still be singled out, although in a crude form, and not in a so-called “mafia” form. It is worth noting that this form is quite widespread in Russia, after the collapse of the Soviet Union [13].

If we consider all the main phases of group crime evolution, which are given in the table, then at the top we will get the developed “C” form – organized crime. It contains two elements together: striving for power (corruption, terror, etc.) and profit. At the developed level, these signs are present simultaneously. This is confirmed by several studies:

The researches of American scientists show that the purpose of taking possession of any property by violence is replaced in the crime dynamics with that of gaining super profit, while at the peak of crime there is an accretion of a separate group with corrupt elements of government structures [14]. Starting with a mob, crime will go a long way to an organized form [15]. In this process, as we can see, there is an aspiration towards a mega profitable business, the individual elements of which are small or large groups, with a simple or complex organization, formed into transnational associations.

According to British scientist, and sociologist John Mack, organized crime is a systematic formation of professional criminals, the so-called entrepreneurs behind the curtain [16]. American scientist Donald Kress believes that among group crimes, organized crime is a social system based on a bureaucratic superstructure [17]. It is difficult to deny the mentioned feature, because in general, unlike the so-called ordinary group crime, organized crime, as shown by empirical studies and

the conclusions of government commissions of various countries, always seeks protectors in state structures.

With the spread of organized crime in different countries, the concept of including criminal groups in the general palette of organized crime appears. We are talking about special groups in which government officials are involved, that is, they are united by an institutional principle. These groups mainly establish corrupt connections, engage in information intelligence, etc. In the given generalizations, the origin of the group is related to the government. The described cases produce the so-called low level of group genesis [18]. But there is a higher level. In particular, the UN Secretary General's report mentions the situation of criminal groups in countries where the leading elite is at the same time the organizer and head of the mafia. In this regard, developing countries are the most typical, where the government at the same time represents an organized criminal group [19]. Such a statement of the whole question is correct if we consider only one form of group crime, but within the framework of the analysis of the whole group crime, some corrections need to be made. "Strive for power" - consideration of this sign is an important indicator of all group crimes if we consider organized crime as a developed form. Then, in a descending way, the less developed forms can be discerned, based on the observation of whether these less developed groups have this trait.

Proceeding from theory as well as practical experience, the conceptual basis of the prevention of and fight against group crime is the concept thereof, which exists in many different versions all over the globe. The stages of the group crime evolution differ in different countries, nevertheless, we were able to distinguish several stages that are important for understanding group and especially organized crime.

The United Nations International Conference on Organized Crime in 1991 adopted the notion of organized crime. According to it organized crime is

a criminal, controlled, solid association for members of which crime is a business, and which creates a system protected from social control through corruption. The first step in defining the notion is the American concept of a conspiracy by a criminal organization, which was used in the famous Nuremberg trials, where a new concept – a criminal union – was defined. This concept was deepened by Italian legislation in 1992, which introduced the concept of mafia groups (gangs) under article 411 of the Penal Code.

In 1994, an international conference in Naples identified several important provisions that influence modern normative thinking. In this regard, there are three forms of group crime: 1. Organized group; 2. Criminal organization; 3. Criminal union.

1. Organized group – is characterized by the fact that its leader is at the same time the organizer of the crime.

2. Criminal organization – is considered a more powerful form that is more difficult to manage. As a rule, the head of a criminal organization is not the organizer of a specific crime. The distribution of functions here is also more difficult than in the first form group: one team of the organization creates and manages the organization, the second – commits a specific crime, the third – ensures the functioning of the organization, the legalization of criminal proceeds, protection, and so on.

3. A criminal union is the highest form of organized crime. It also has the features of the first and second forms, but differs in an additional new feature – it is the coordinating body of leaders. In this case, we see a level of organization, when the “leaders” of the underworld gather for a specific purpose: to redistribute, coordinate and manage spheres of activity.

In this respect, the legislation of the USA is interesting, where the main normative act to fight organized crime is RICO. Passed in 1970, the Racketeer Influenced and Corrupt Organizations Act (RICO) is a federal law designed to combat organized crime in the United States. It allows

prosecution and civil penalties for racketeering activity performed as part of an ongoing criminal enterprise. Its importance is determined by several factors: before the adoption of the mentioned statute, the traditional criminal legislation paid attention only to the individual, specific crimes, such as murder, robbery, etc. As a general rule, the allocation of the burden of proof did not allow the use of information about previous convictions and past contacts with the convicted co-conspirators against the indicted. This is completely natural because the traditional criminal justice process is based on the constitutional principle of the "Double Jeopardy Clause", which bans the imposition of punishment twice for the same crime. Such a system of administration of justice is correct for avoiding the wrongful prosecution of innocent persons, but it is less effective in the process of fighting organized crime. In reality, it is very difficult, if not impossible, to link individuals at the top of a criminal organization to a specific crime. They plan and direct criminal activities, as well as receive income from such activities, but usually do not carry out criminal activities themselves. Before the RICO Act, no law in America would create a legal basis for prosecuting such individuals [20].

The opinion expressed by scientists in the criminological literature should be taken into account, that many norms of international law have not been transformed into national legislation. For example, the Law of Georgia On Organized Crime and Racketeering (June, 2004) gives narrow definitions, such as *thieves' world*, *a member of the thieves' world*, *thief in law* and others. We believe that the content of the above terms should be presented in the law in a broader sense, including any criminal association of individuals and their leaders. With this in mind, it is necessary to research to determine the status of group organized crime, its causes, conditions, and prevention mechanisms, the basic definitions of the concepts of *organized crime*, *systemic crime*, and *the member/leader of the criminal union/world*, for the

development of legislation by international standards.

When studying the concept of group crime, and especially organized crime, it is essential to take into account the problem of aggressive separatism, as by its very nature it is a form that is at the peak of the highest phase of the evolution of crime. Therefore, it should be given a special place in the classification of forms. Also, the developed form itself is presented in two forms in our country:

a) rebirth based on criminals uniting, followed by covering up illegal activities and entering the government, as in the "C1" form;

b) by violating the integrity of the country, and engaging in aggressive separatism, as in the "C2" form.

The developed ("C1") form founded on a criminal basis is known to the Georgian criminological theory as the Mkhedrioni (Horseman militia) militarized organization, which, through criminal means: terror, voter fraud, de-organizing social thought, tries to establish systems for controlling the government to create a basis for acquiring profits and protection from government control. In this case, the government itself becomes means for acquiring profit. In 1995, the Ministry of Internal Affairs of Georgia took appropriate legal action against Mkhedrioni. Here, the tendencies outlined in the USA can be observed: "Cruel reckoning . . . moves to the backplane and corruption and overly-profitable criminal business moves to the forefront. Also, the richer the mafia family becomes, the less weight the criminal holds in its activities" [21]. Here, we can have the radical, ultra-right Ku-Klux-Klan organization as a specific example, which was active in the 1920-s in the USA [22], which was labelled a terrorist organization by the 1999 Charleston committee [23].

An example of the highest phase of group criminality is the "C2" developed form, the aggressive separatism which seeks to acquire governmental dominion over a certain territory by

violating the integrity of the country, to acquire profits later, and protect itself from government control. The definition of the term aggressive separatism, as well as the definition of the above terms are not contained in the law. When distinguishing forms of political crimes, a distinction is made between crimes against the state and its citizens. Of these crimes, terrorism stands out, but separatism is not studied. Thus, separatist groups are not singled out from the forms of group criminality. However, without analyzing separatism, it is difficult to get a complete picture of organized group crime. Historians, publicists, and scholars have written extensively on this subject. At present we are dealing only with the theoretical aspect of the issue, especially since we have been mentioning the need to study it for a long time. This idea was first introduced into the informational thinking doctrine by the second President of Georgia Eduard Shevardnadze on November 10th, 1995, in the city of Alma-Ata, during the Commonwealth of Independent States (CIS) countries leader summit.

With its form, “C2” is more developed than “C1”. Mkhedrioni had partial ambitions for the government, as much as its leader occupied one of the top positions in the central government. When analyzing “C2”, we see a new level of form. Specifically, in Abkhazia and so-called South Ossetia, the above-mentioned separatist activities are being carried out by groups that managed to acquire power on a section of Georgian sovereign territory. Aggressive separatism is presented to us as a part of the business interests of a transnational corporation, Russia. A separatist group often acts by the structure of the country that it managed to take under control. The system for providing conditions for the group operates as so-called official structures form. The basic goal here too is profiteering, but this goal is more organized from the outside, from Russia, and in conflict with national goals. This is accomplished through the genocide of the native population and ethnic

cleansing, and the so-called government structures and business circles are packed with people who would espouse the separatist ideology. During the process of active conflict, involved in the neutralizing operation are certain aggressive parts of the native population empowered by police rights, as well as mercenaries. As for the central level of the neutralizing operation, along with the separatist government, the special and military forces of the interested party, the Russian Federation, are involved. So, in the “C2” form, the integration of the political, economic, and military politics of the Russian elite and the usurped governments. After the end of the armed conflict in the 90s of the 20th century, the situation was frozen for a long time, and two uncontrolled regions in the country were expanded as a result of Russian military aggression in 2008: Two uncontrolled regions in the country expanded as a result of Russia’s military aggression in 2008: the Kodori Gorge was added to Abkhazia and over one hundred (103) villages to so-called South Ossetia. Hundreds of soldiers (179), police (14), and civilians (228) were killed during the fighting, and, in addition to 300 000 people, thousands more were forced to flee their homes (35,000). This war caused the greatest social-economic damage to Georgia. The Kremlin made the most aggressive political decision for our country: it recognized both separatist regions as independent states. Throughout the current conflict, the authorities of the self-proclaimed de facto Republic of South Ossetia and the corresponding military and special services of the Russian Federation have systematically terrorized and abducted civilians living on the border with the conflict region and conducted acquisition of land (so-called *borderization*). There are frequent killings of Georgians and attacks on police checkpoints and block stations. Well-known tragic crimes were committed against the citizens of Georgia: David Basharuli (2014), Giga Otkhozoria (2016), and Archil Tatunashvili (2018) [24].

The "C2" form of aggressive separatism is the highest form of group criminality evolution and creates national problems for the international community. As is known, thousands of ethnic groups are registered almost on all continents of the world, and only a few of them hold a generally separatist and "aggressive separatist" position.

Today, it is a problem not only in developing countries but also in developed democracies. If the Balkans were considered the center of separatism on the European continent, today many European countries are concerned about this problem, in Belgium – the Dutch-Flemish society demands independence; In Spain – Catalonia, and the Basque Country; In the UK – Scotland; In Italy – Northern Italy; In Germany – Bavaria. Separatism is quite painful for Asia: In India and Pakistan – Kashmir; In China – Uighurs; In Iran, Iraq, Turkey and Syria – the Kurdish separatist movement, is still one of the unresolved conflicts in the world.

On the American Continent: In Canada – Quebec; In the United States – Texas and others [25].

As for the post-Soviet countries, deeply inspired by the authorities of the Russian Federation, in many countries, including Georgia, there is a problem of separatism in a particularly dangerous form – aggressive separatism. In particular, in Moldova – Transnistria; In Armenia and Azerbaijan – Nagorno-Karabakh; In Ukraine – Donetsk, and Lugansk. The effects of the inadequate attitude towards the problem at the international level are manifested in Ukraine in modern conditions.

The basic phases and forms of criminality and its group form evolution process established by a criminological study on a national level create the ability for corresponding government and social organizations to realize the strategic, but at the same time, different complex positive aspects of fighting against criminality, and especially preventing it.



## კრიმინოლოგია

# დანაშაულობის, მისი ჯგუფური ფორმის ევოლუციის ძირითადი ფაზები საქართველოში

## მ. ზამაღლა

საქართველოს კრიმინოლოგიის მეცნიერებათა აკადემია; გრიგოლ რობაქიძის სახ. უნივერსიტეტი, თბილისი, საქართველო

(წარმოდგენილია აკადემიის წევრის მ. უგრეხელიძის მიერ)

კვლევის მიზანია ჯგუფური დანაშაულობის ევოლუციის ძირითადი ფაზებისა (ნულოვანი, დაწყებითი, გარდამავალი, უმაღლესი) და ფორმების (ადრეული, შემთხვევითი, დუალისტური, განვითარებული) დადგენა და მათი გენეზისის განსაზღვრა ჯგუფების რაოდენობრივი მონაცემებისა და შინაგანი სტრუქტურის საფუძველზე; ჯგუფური დანაშაულობის არსებობის მიზეზების შესწავლა იმ ევოლუციური მიდგომის ფარგლებში, რომელიც მსოფლიოს განვითარებულ ქვეყნებში ჩამოყალიბდა; ჯგუფური დანაშაულობის წინააღმდეგ მოქმედებისათვის ძირითადი მიმართულებების განსაზღვრა, როგორც ჩვენი ქვეყნის ეროვნული თავისებურებების, ისე საერთაშორისო გამოცდილების გათვალისწინებით. კვლევა ემსახურება სახელმწიფოსა და საზოგადოების მხრიდან დანაშაულობის პრევენციისა და ბრძოლის სტრატეგიული, კონცეპტუალური მიდგომების ჩამოყალიბებას, და გათვლილია ამ მიმართულებით საქმიანობის რეალურ შედეგზე. ეროვნულ დონეზე კრიმინოლოგიური კვლევით ჩამოყალიბებული დანაშაულობის, მისი ჯგუფური ფორმის ევოლუციის ძირითადი ფაზები და ფორმები შესაძლებლობას უქმნის საერთაშორისო საზოგადოებას, შესაბამის სახელმწიფო და საზოგადოებრივ ორგანიზაციებს დანაშაულობის წინააღმდეგ ბრძოლის, განსაკუთრებით მისი პრევენციის სტრატეგიული, კონცეპტუალური, ამასთანავე ურთულესი, განსხვავებული დანაშაულებრივი „პოზიტიური“ ასპექტების გააზრებაში.

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