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DICHOTOMY OF NORMAL / CRIMINAL IN ĐORĐE TASIĆ'S INTERPRETATION

ABSTRACT: This paper is aimed at pointing to the significant scientific contribution of Professor Tasić, the affirmation of sociology and some of its disciplines because, although a jurist by vocation, he was a true admirer and acclaimed founder of sociology as a social science. His scientific orientation was directed, among other things, towards common law, which he perceived not only through legal science, but also through ethnology and sociology. Analytically approaching the works of Vuk Karadžić, Jovan Cvijić and Tihomir Đorđević regarding the topic of the quality of interpersonal relations, he strived to determine the degree of impact on them through practising the existing common norms. At the time when sociology was still in the process of constitution as a separate scientific discipline, he made an (un)conscious pioneering step towards the foundation of social pathology as one of its disciplines. In fact, he pointed to the normal or criminal, or unacceptable, in marital and family unions. Why are some patterns of behaviour practised in everyday life, specifically, are there any customs behind bigamy as a pathological phenomenon, different statuses of marital partners in the union, and how strong are those patterns in everyday life? He believed that sociology was supposed to deal with giving an answer to these and similar questions,

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while in the remainder of the paper we will try to present some of the answers to the posed questions from the aspect of the modern society.

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INTRODUCTION

Analyzing the available scientific material of Professor Đorđe Tasić, and particularly the part of the material dedicated to him and his scientific work by other authors, we must admit that the authors of this paper, in their very choice of the topic, encountered a specific challenge in scholarly terms, in their attempts to answer to the perception of the normal and the criminal in Tasić's work. His primary education as a jurist and action mostly in the sphere of jurisdiction, as well as his position of the university professor, were not a limiting factor and did not reduce his interest in related scientific disciplines. Apart from contributing to the development of the legal theory and legal philosophy, Tasić had a scientific appetite and desire that led him to the trails of sociology, ethnology and linguistics. For the purpose of this paper, we will focus on his scientific contribution to the development of sociology and his encouragement in the development of some of its disciplines. He is one of those scholars who, by his analytical procedures, laid the foundations of the Serbian sociology of the village, as well as of sociology of law. Đorđe Tasić deserves the credit for sociology by establishing the Society for Sociology in 1935, by launching the journal *Sociološki pregled / Sociological Review* in 1938 and by bringing sociology as a science closer to the part of the society of the time interested in social phenomena, their causes and effects. With his work, he gave special dignity to the sociological thought, introducing the concept of the sociological method in legal science. It was a kind of encouragement to all those who had not previously dared to present some of the interpretations, observations or explanations by consulting sociological findings and by applying sociological methods in their research ventures and work. In this paper, we will also attempt to present Tasić's (un)conscious steps through his scientific and research work towards the foundation of yet another sociological discipline – social pathology, which will be developed and established many years after his era. We are certain that his accomplishments in the field of this sociological discipline would also have been significant if he had not been prevented by his tragic life circumstances.

THE BACKBONE OF TASIĆ'S SOCIOLOGICAL ACTION

Speaking of Professor Đorđe Tasić's contribution to sociology entails emphasizing and explaining certain parts of his sociological action in the sphere of legal sciences. Guided by such structure of our work, we will admit having a problem with pointing out the key sociological theses in his scientific opus solely because of the constant existence and expression of concern for the status of an individual, for the quality and

meaningfulness of the moral principles of the time in the context of the state and law. His social awareness and need to consider certain legal problems from the aspect of sociology, a pioneering science at the time, cause regret for his short but fruitful life path. From today's time distance, it is completely justifiable to regret for such a theoretician having in mind that the quality of his understanding the importance of sociological aspects in the society for that era, which is often overlooked by the modern society. Tasić's scientific work hardly covers three decades, but it contains over several hundred scientific texts about the theory and philosophy of law, sociology of law, constitutional and international law and general sociology (Vasić, 2013, p. 112). It is a fact that the period of Tasić's scientific action overlaps with different social turning points occurring on the political scene in Europe, which was an introduction into something described by sociology as disorganization, anomie and conflict and which served as an inexhaustible source of his ideas for work. However, regardless of the (unfavourable) circumstances in the Serbian society at that time, Tasić's main guiding ideas were *social life* and *social idea*. In the period before the Second World War, sociology was expected to neutralize undesirable effects of the political propaganda, so as to constitute itself as a Weberian value-neutral science, in the territory of Yugoslavia of the time and to take a critical attitude towards politics and ideology (Mitrović, 1988).

“Just as inside, in the state, law has its legal and, at the same time, social foundations, the same refers to the outside. Inside, in the state, it becomes factual only at the first moment and subsequently towards an established form and towards legal principles, but then it also has its social root: through the legal prism, life is expressed to a larger or smaller extent, since the very form is the condensation of social relations. Therefore, it is only one social factor whose nature is such that it enables only a certain group to find its expression in legal norms. From the outside, in international relations, there is always one legal form through which social life passes” (Tasić, 1920: 84).

His aspirations and attitudes were recognized after many years, and he has been described as a scientist “striving towards progress and perfection and constantly acting towards that goal”, because life is understood as a task with the meaning in the global system, and primarily in the human society, since man never exists by himself or for himself (Lukić, 1959: 1). Convincing people that they should exercise their rights in a manner that does not harm others, in the spirit of peace and agreement, and not attempting to abuse law, Tasić also insists on and emphasizes the importance of the social idea (Tasić, 1920). In Tasić's work, sociologization of law was evident when he discussed law and morals, the abuse of law, the problems of the natural state, which is one of the first links for his perception of the normal and the criminogenic in society. Choosing between the legal concepts of the time about the importance and role of law in the state or society, Tasić opts for and promotes the one recommending the adaptation of law to the changes in society. Analyzing the category of norms, both the formalized (legal) norms and non-formalized ones (customs), Tasić makes broader findings about customary law, as well as about the category of solidarity.

As emphasized by Marjanović, customary law is understood both in broader and in narrower terms, whereas it should be noted that the broader aspect of customary law includes all legal forms apart from the laws, while its narrower aspect refers to the judge being bound by the objective belief in the same manner of his/her being bound by the law. Customary law is characterized by the amassing of certain human actions over a long period of time and the awareness of being obligated. It is interesting to see Tasić's explanation of the weight of customary law versus the law, where he emphasizes the autonomy of customary law as long as it is not subject to sanctions. The practice of the time somewhat sporadically approved of the law's reticence regarding certain customary norms that appear outside the law, as a spontaneous social form (Marjanović, 2010).

From the sphere of the prevailing Serbian ethnological thought at the time, Tasić is interested in the strength of folk customs, from which customary law derives as well, with the intention to point to the normal and the criminogenic in interpersonal relations from the sociological aspect. The issue of bigamy in T. Đorđević's work was particularly emphasized and determined as criminogenic, with special interest in what was directly behind certain models of behaviour. He wondered whether those were customs or some other rules. These considerations lead us to the conclusion about the importance of studying socio-pathological phenomena at the time when this discipline had not been constituted yet, but its significance was indirectly recognized. Today we may definitely speak of its foundation and competence for the modern research into deviance. Studying deviance as the main focus of social pathology, its research and analysis of its goals, to a certain extent constitutes the concept for understanding the mechanisms necessary for the function of societies (Milošević Šošo, 2019: 209). In his work *Philosophy and Sociology*, Tasić says that sociological interpretation should not be excluded when it comes to morality, which is made of the "moral concepts that guide people in their lives, that become customs and that are applied by the institutions within which people actually live" (Tasić, 1938a: 29). From the viewpoint of modern understanding of criminogenic behaviour, usually with the customary norms of patriarchal society in the background, there are examples of social violence founded on the aggressive urges of male population as proof of their superiority; physical conflicts are often part of "proving masculinity" and the militarist orientation caused by patriarchal attitudes, particularly in the post-war environment (Jugović, 2014: 26). Islamic tradition is full of customs that refer particularly to female population in terms of punishment in case of deviating from customary norms. An example illustrating this is Pakistan, where murder from honour has never been adequately processed from the aspect of jurisdiction. The custom of blood feuding in Montenegrin, but also in Albanian society is a typical example of the criminogenic nature of certain customary models of behaviour. The essence of customary law is that it is founded on and acts at the level of collective consciousness, which is Tasić's yet another contact point with sociology or, more precisely, with socio-pathological considerations. First to be seen is his agreement with Durkheim's interpretation of social relations based on law and customs. In that respect, regarding modern societies, we may say that "every

form of pointing to the presence of deviant phenomena in society [...] is already a form of struggle against them” (Milošević Šošo, 2018: 95.)

“Durkheim observes that social relations may be established without assuming a legal form. They do not remain vague because of it, but are regulated by customs. It often happens that customs are not in line with law”. Durkheim thinks that these contradictions occur only in exceptional cases, but that customs are generally not opposed to law, but constitute its foundation” (Durkheim, 1972: 106-107).

Namely, through his explanation of social division, Durkheim categorized societies by the degree of their solidarity into mechanical solidarity societies and organic solidarity societies. Mechanical solidarity is associated with poorly developed, primitive societies, while organic solidarity is characteristic of more developed societies. Durkheim’s solidarity is something that keeps the members of a society together and, from the aspect of social division of labour, those are different jobs. In the societies with organic solidarity, the work sphere abounds in various activities and types of jobs, for the purpose to fulfilment of human needs and the functioning of the society. Organic solidarity is quite often a source of moral crises, accompanied by anomic situations in society due to the increased dynamic density of population in a certain territory (Durkheim, 1972). It inevitably leads to its transformation into mechanical solidarity under the influence of collective consciousness, which is made of collective beliefs, sentiments, customs typical of the members of a society.

“Dissatisfaction coming from unfulfilled aspirations is not sufficient to turn against the social order as its cause even those who suffer because of it, because they care for that order, not due to finding in it the field for developing their professional activity, but due to the fact that in their eyes it contains a multitude of beliefs and habits they live from” (Durkheim, 1972: 367).

In his process of the sociologization of law, Tasić opposes Durkheim in the category of collective consciousness, negating its very name, where the notion of collective consciousness is replaced by the notion of social consciousness, founded on the basics of interpersonal dependence. Believing that sociology should deal with social solidarity, while law confirms its main forms, on the trail of discovering transformed societies from organic into mechanical solidarity, Durkheim consulted law and changes within the legal system. He emphasized that societies with mechanical solidarity are characterized by criminal law intended for perpetrators, which proves that criminal law is applied and whose existence indicates the material reflection of the presence of strong collective consciousness and the society bound by mechanical solidarity. The weakening of collective consciousness leads to the emergence of organic solidarity and the emergence of restitutive law, which implies adherence to the law by each individual and bearing adequate consequences for offences.

“As for the question in the essence of this work, it is the question of the relations between an individual person and social solidarity. How does an individual, despite becoming more and more independent, happens to be increasingly dependent on society? How can an individual be more personal and more solidary, i.e., mutually dependent, at the same time? It is indisputable that these two trends, no matter how contradictory they may seem, occur at the same time. It seems to us that what resolves that apparent contradiction is a certain transformation of social solidarity, which is caused by the ever more important development of labour division” (Durkheim, 1972: 82).

For Durkheim, social solidarity is a moral phenomenon, while law is the visible part of solidarity. This is exactly stated by Tasić in his following thesis:

“Law is a social factor, and wherever there is a society, there is law. The basic social fact is solidarity in terms of mutual dependence. Law is the expression of that fact. Law is the best measure for the nature and degree of solidarity. With the change in solidarity, the change in law also ensues. Law is not manifested directly through solidarity, but through man’s consciousness” (Tasić, 1920: 59).

As Lukić observes, for Tasić, “law is the crystallization of unique social consciousness, as opposed to morality that is not necessarily unique” (Lukić, 1959: 5).

Relying on Durkheim’s understanding of the normal, Tasić clarifies his attempts to categorize normal and unacceptable forms of action, i.e., human action. Certain that Durkheim’s confused the normal with the normative in an attempt to explain the normal in a society, Tasić interprets it as Durkheim’s failed attempt to categorize normal and unacceptable actions.

“That is the notion of the normal, defined as something most common. As such, the normal is not only what a social science may find important for social phenomena, but it is also something that is important and simultaneously useful, but not necessary. The very fact that a form is widespread proves that it is useful. To tell the truth, Durkheim does not equate these two concepts because, if the normal is useful, the useful is not normal [...]. Even worse, it cannot be claimed that all widespread things are good and useful because bad and harmful things can also be widespread [...]. But what does the normal exactly mean? The normal is something widespread to a larger of smaller extent; it depends on the social group and conditions, and in line with the nature of the facts” (Tasić, 1938b: 168).

In that respect, today we also think that greater interest is needed in socio-pathological problems, particularly in transition societies, where forms of behaviour are more frequently opposed to the current social norms and rules, because those societies are transformed in the course of new social changes, which consequently changes their systems of social norms and values as well. For that reason, social pathology is the most competent

for understanding, analyzing and projecting further consequences of such behaviour, with mutual consultation with other sociological disciplines (Milošević Šošo, 2019: 212).

Furthermore, in his interpretation of Durkheim's understanding of the notion of crime, Tasić emphasizes that crime is a product of the social structure itself, deriving from various opposed viewpoints about different matters and, as such, being desirable because they point to the unobstructed course of evolution. The emergence of the unacceptable, criminogenic or criminal in society is explained by widespread as one of two faces of normality. However, according to Tasić, "crime is not normal because it is an exception; a society with more crimes than legal elements could not exist whatsoever" (Tasić, 1938b: 170). Despite their opposing attitudes regarding the category of the normal in societies, Tasić agrees with Durkheim when it comes to the derivation of the notion of the norm from the category of normality, which is to become the foundation and measure of human action. Taking into account Tasić's good sociological knowledge and familiarity with the scientific circumstances in this field, he sees sociology as an opportunity for determining morality notions, while morality is determined by the social conditions that are of changeable nature and that can be influenced. That is where he shows his proper understanding and acceptance of the sociological method. The application of the sociological method in the analysis of the normal and the pathological takes Tasić towards the criticism of Durkheim's concepts of the normal and pathological (Tasić, 1938b: 167-172). In Tasić's opinion, the manner of action of man, as well as society, largely depends on the adopted moral norms beside the existence of the law. The choice and acceptance of moral norms lead to the creation of certain values and desirability, as well as to the formation of a perception of ideal society and individual at a certain point of the evolutive road. In his analysis of Tasić's work, Simić says: "moral values derive from man's nature and adjust to the requirements of life, needs and aspirations of the man living in society, because social life loses its value if it does not suit certain conditions" (Simić, 1997: 159). Thanks to the now developed sociological discipline, i.e., social pathology, we believe that it is the most competent for considering all and similar social changes, because with its methodology and scientific postulates it can discover what is detrimental both for society and individuals; in fact, it can use its analyses and interpretations for the purpose of giving adequate recommendations for suppressing "unhealthy conditions" (Milošević Šošo, 2019: 213).

CONCLUSION

What makes Tasić a contemporary sociologist comes not so much from the character of the issues he dealt with as from the modern approach he applied. From his doctoral dissertation (1920), through other texts (1938), Tasić systematically develops and applies the sociological method in the analysis of the state and law, the normal and the pathological, customs, morality etc. The modern studies of sociology in our region offer learning about Tasić's scientific work primarily in the field of sociology of the village,

in which he became interested by following Cvijić's work and by conducting research in Serbian villages (Antonić, 2018: 11).

The nature and specific features of the sociological method are affected by its interdisciplinary character. The sociological method is founded on the use of the findings of all sciences, in particular biology and psychology, with which sociology makes the "methodological triangle" (Tasić, 1938b: 28). In that respect, Tasić's contribution is wholesome: apart from the methodological establishment of sociology through the development of the sociological method (analogous to Durkheim and Weber), Tasić also applied this method in the analysis of a large number of social phenomena, thus fully completing his theoretical contribution to the development of sociology in our country. He has remained renowned for his synthetic approach to science, covering the apostrophizing of moral factors, the action of the free and conscious man and society, the importance of solidarity and the implied progress (Lukić, 1959: 10). We – primarily the contemporary sociological profession – owe gratitude to Professor Tasić as a visionary due to his thoughtfulness, objectivity and enterprise in recognizing sociology as a science of crucial importance in relation to social circumstances and conditions. In other words, as stated by Tasić himself, "for us, sociology is the consciousness about ourselves, the most complete, the most comprehensive, the most truthful and the richest; for us, it also becomes our conscience" (Tasić, 1938c: 4).

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