

Prof. Irk, Ferenc JD. Dsc.
National Institute of Criminology
Budapest
Hungary

Victimized power - victimized society

The majority of the European countries being in the process of changing the political system can experience an ambivalent relation between the state and its citizens. People, on one hand, enjoy a wider scope of possibilities provided by the liberties and freedoms, on the other hand, they miss the feeling of safety that used to be ensured earlier by the strong state.

Parallel with the transformation from a centralized system where everything was planned, to democracy and market-economy, the inner power has weakened, and the responsibilities of the state have changed. Various facts played a role in this process: inner traditions on one hand, and expectations inside and outside the country, on the other hand. Therefore, it is very important for us to learn what principles are in effect in the states whose community we are integrating.

Several social scientists say that during the last decade, all over the world but particularly in the most developed countries, globalisation has brought about changes in the power-structure of the states which will have an unfavorable effect on public safety.

To explore the real situation, the following hypotheses should be analyzed:

1. As the business community is getting stronger and becoming multi-national in character, it will be able to exert a strong influence on the formal state power. The main figures of the world economy have already become the political centers not only for some states but also for whole continents. And this process is going on.
2. While the state power and the administration are busy dealing with sanctioning the individual citizens who have breached a certain norm, they fail to notice that at present, it is not primarily the will of the state but the power of the economic interests that determine how and on what scope society will develop. By its strength, economy practically is able to withdraw from the regulation of administration.
3. Consequently, it is economy that controls the state, and the economic regulators are legalized by the state subsequently. Therefore, citizens can lose the chance to sanction any undesirable trends of the economy, even if their homeland is a democratic and constitutional state where the rule of law prevails.

4. The business community on one hand does not necessarily serve the interests of the majority of the society; on the other hand, the leading figures of organized crime can be found in their circles.

5. It may, therefore, happen that the state (whose responsibility is to represent the interests of the society) will suffer much serious damage by the activities of the legal and illegal participants of the economic life, than by the offenders whose detection and punishment is in the focus of the state's attention. If it is true, it is a threatening phenomenon, since it is the wrong target-group the state and the public attention is concentrated on.

6. The power wishes to react to the new threats originating in the social changes with the help of legal means, first of all the means of criminal law. This kind of regulation - because of its special means - is always subsequent and delayed; it is very difficult to find out who is responsible; and in a number of states it is genuinely unsuitable for enforcing the state's will against the business community. If the criminal liability of a legal entity is excluded, it is generally impossible to punish the figures of public life posing the greatest threat. The means of the traditional crime policy are doomed to failure in this field.

7. The state can respond to the offenders who commit traditional crimes, and the responses of the state are typical, based on thousand-year old traditions, and are supported by moral background. But these means are inefficient against the decisions of the business community that neglect the interests of the state and the citizens. Consequently, the state is getting more and more helpless in this respect. This phenomenon will get important as globalisation is spreading.

8. A change of paradigm is needed. The state can only protect its citizens against the excessive power of the main figures of economic life, if it applies regulators that protect not only the rights of the individuals, but also serve the interests of the business community. It is not sufficient for the state to focus on the interrelations of the individuals, and do its best to avoid victimization only in these circles in order to protect values which it considers the most important for its stability. The state should find more suitable means. Means that will enable the state to keep its leading position in the regulation of the life of the society. Beside transforming criminal law, it is also needed to systematize the whole legal system. First in the world, the legislation of the European integration will open the way for us to do this.