

PERAET 2021**International Scientific Conference «PERISHABLE AND ETERNAL: Mythologies and Social Technologies of Digital Civilization-2021»****SOCIOLOGICAL BASIS OF ECONOMIC AND LEGAL PROBLEMS OF INSOLVENCY (BANKRUPTCY)**

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Abstract

The subject of the study, which served as the basis for this publication, is the social behavior of individuals, which entails the emergence of insolvency and its development into an extreme form – bankruptcy. However, until now, economic and legal science has ignored the fact that bankruptcy processes are based on sociological patterns that are manifested in a number of social actions. Debt escalation into insolvency, and then into bankruptcy is a logically predictable result of negative social actions of the participants in the bankruptcy process, sometimes in the form of anomie. Bankruptcy is primarily a social phenomenon, and the bankruptcy behavior of persons inclined to this, regardless of their belonging to the category of citizens or legal entities, manifests itself in relation to all types of obligations, without exception, expressed both in monetary form and in kind. Such persons are united by a common model of social behavior, which consists of typical social actions. The paper notes the negative correlation between bankruptcy and a high level of corporate social responsibility, as well as the fact that the manifestations of bankruptcy behavior are beginning to be taken into account in the advanced methods of personnel management. It is proved that the social problems of bankruptcy and the social behavior of the participants are the key in the development and application of successful economic policy and the legislation ensuring its implementation, taking into account the achievements of sociological science.

2357-1330 © 2021 Published by European Publisher.

Keywords: Anomy, social behavior that forms insolvency, social phenomenon of bankruptcy



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1. Introduction

In 2020, according to the arbitration managers, 119,049 citizens and individual entrepreneurs were declared bankrupt in Russia, which is 72.6% more than in the previous year, and the growth over the past five years has exceeded 600% (Finmarket, 2021). Since the inception of the institution of bankruptcy of individuals, 282,284 people have been declared insolvent. In addition to the existing procedure for declaring citizens bankrupt through court, from September 2020, the possibility of implementing this procedure in a simplified, out-of-court procedure was introduced. In the period from September to December 2020, 6,413 citizens used this mechanism.

Despite the increase in the number of bankruptcy applications initiated by both creditors and defaulters, as well as a significant simplification of this procedure and an increase in its accessibility, this phenomenon has not yet been considered in Russia from the point of view of social behavior.

2. Problem Statement

The phenomenon of bankruptcy should be studied using sociological tools in view of the high risks of the impact of the social behavior of defaulters on the social stability of the whole society. The study is aimed at analyzing the questions posed in order to find their solutions in the current situation using the methods of sociology, in order to further develop recommendations for economics and jurisprudence. The problem of studying bankruptcy behavior is that, like an epidemic, it covered both debtors and creditors: borrowers are credited without intending to pay off, and banking organizations (banks and especially microfinance organizations) are credited, despite signs of insolvency. Leaders who drive their companies to ruin, acting on behalf of legal entities-borrowers, feel safe because their personal assets do not serve as security for the company's obligations.

3. Research Questions

The absence of Russian studies on the seemingly obvious, fully formed problem of the sociological interpretation of bankruptcy, the urgent task of scientific research and practical use of the social foundations for solving the bankruptcy problem, in itself was a question requiring an answer.

The introduction of the term "*bankruptcy behavior*", which will be used in the future, formulates the problem of the objective existence of socio-psychological laws of the mechanism of bankruptcy.

The question of the *anomy of bankruptcy behavior* is raised. Countless bankruptcies of borrower-embezzlers and falsifiers of accounts entail not only the termination of legal entities and their personal collapse, but also the liquidation of businesses and enterprises that depend on them, and, consequently, jobs. This phenomenon in general can be called the phenomenon of bankruptcy behavior. For all the evidence, this behavior has never been the subject of sociological analysis.

Antisocial bankruptcy behavior manifests itself in any legal order where there are conditions for it. The paradox of the phenomenon of insolvency (bankruptcy) in the modern period lies in its *global nature* – it has covered both debtors and creditors like an epidemic: borrowers are credited without intending to pay off, and banking organizations (banks and especially microfinance organizations) are credited,

despite signs of insolvency. Many states exist with huge external and internal debts, and some declare defaults, i.e. declare themselves bankrupt.

The next research question is the *phenomenon of changing public opinion about bankrupt individuals*, that is, persons responsible for default on debts. The paradox revealed as a result of observing the behavior of persons in a state of bankruptcy is revealed in the fact that, despite the antisocial effect of the actions of bankrupts, especially entrepreneurs and employers, public opinion is not only tolerant of them, but in most cases even shows sympathy.

4. Purpose of the Study

Bad borrowers, as a rule, do not feel guilty and cultivate hatred of creditors, do not try to pay off, expect mortgage amnesty and all loans in general. The other extreme of the manifestation of bankruptcy behavior leads to tragic consequences. Although the literature has repeatedly described cases of termination of credit history by settling accounts with life desperate to pay off and do not want to live in the future in cramped conditions, the real prevention of bankruptcy behavior leaves much to be desired. In the literature, there is a correlation between an increase in suicide and a slowdown in economic growth, as well as an increase in the frequency of bankruptcies (Santos et al., 2016). However, it is this category of debtors that, as a rule, does not become bankrupt and thus does not receive debt relief. A close study of the behavior of this category of persons is at the intersection of sociology and criminology, and will be investigated in the future.

5. Research Methods

As of today, a sociological study of the causes and manifestations of the behavior of persons falling under the status of insolvent is not carried out. Therefore, this study aims to describe the social behavior that leads to bankruptcy. Through observation and analysis, it was revealed that this type of social behavior – bankruptcy behavior – is typical for any types of obligations, expressed equally both in monetary form and in kind, for any categories of subjects (citizens and legal entities, borrowers and creditors). They are united by a common model of social behavior, constructed from its constituent elements – social actions. To describe this model, a characteristic of the social actions of persons undergoing bankruptcy is given, according to the typification proposed by Max Weber. The characteristic is confirmed by examples from practice. Using a practical example, it is shown that bankruptcy behavior is social behavior with a negative assessment, that is, it is asocial, its justification is anomy.

6. Findings

Bankruptcy in American sociology is viewed as a "social pathology" or "social problem", as well as "trauma for every one of the thousands of people who experience this, trauma, perhaps akin to a serious physical illness", but it is "normal" for capitalist society, and is not a symptom of pathology (McIntyre, 1989).

The 2001 Nobel laureate Stiglitz (2000) finds the cause of the calamities of post-reform Russia, including the wave of bankruptcies of enterprises and the ruin of industry, in the Bolshevik approach to

market reforms in Russia, i.e. in the pace of economic reforms, and not in the mechanism of their implementation. It should be noted that this attribute of the capitalist economic model manifests itself in any country, regardless of the way reforms are carried out or none at all. In the countries of the post-socialist space, there are attempts to rethink this phenomenon, which for several decades was basically absent in the conditions of a planned economy (Kristóf & Virág, 2020), state ownership of the means of production and collectivist consciousness. Fully aware of the unacceptability of the abolition of bankruptcy, an integral component of the capitalist model of the economy, we raise the question of the psychological breakdown of the consciousness of some people, which has acquired the paradoxical features of renouncing social responsibility for the consequences of their antisocial actions. The destruction of social ties, the undermining of trust, indeed led to anomie in the field of insolvency and its extreme form – bankruptcy. The return to the capitalist economic system in these countries caused specific reactions. The need to study bankruptcy as a social institution, the inefficiency and dysfunctionality of the mechanical transfer of bankruptcy procedures into a different social reality were formulated by Pilitowski (2013).

In view of the specifics of the current situation, that is, deservedly criticized by J. Stiglitz, the "incorrect" practice of returning to the capitalist way of managing the economy, and as a result of this special manifestations in the social behavior of individuals in recent history, which, moreover, is undergoing a cardinal breakdown, the question arises: whether to look for solutions to urgent problems (in the case of this study of bankruptcy behavior) in classical sociology or to use modern research. Moreover, classical sociology itself is the subject of criticism. In the latest sociology, a call was made to abandon the socio-structural analysis of social inequality in view of the so-called "bankruptcy of sociology" and concretization through consideration of life styles. However, we note that the results of bankruptcy behavior go far beyond the personal living space of its practicing subjects.

In conditions of total instability, new, more and more sophisticated models for predicting bankruptcy are emerging (Ansari et al., 2020), however, they do not take into account the component of social behavior. At the same time, interpretations of an ideology glorifying the Self are emerging. Spiritualism (Holistic/New Age Spirituality) is presented as the development of personality, which, in conditions of instability, turns out to be the only truly valuable asset. Within the framework of this concept, a new behavioral ethics is constructed, which presupposes the broadest possible understanding of "investing in oneself", and at the business level — solving the problem of adapting to constant changes through spiritualism. In such a model, the head of the organization acts as a "spiritualist leader" — a visionary whose main task, instead of making a profit, becomes the creation of something new and the initiation of employees to creativity (Dobrovolsky, 2019). In the concept of spiritualistic ethics, which inspires the "new spirit of capitalism", the problems of bankruptcy, both of individuals and of the legal entities headed by them, may well find another way of self-justification. However, psychological "withdrawal" is disappointing for solving social conflict. The problem of anomie of bankrupt social behavior in this concept is solved depending on the leader's vision: there is a problem or it does not exist at all, and perhaps this is a creative way out of the situation and even an act for the good. In this concept, the perception of all reality completely changes, the problems of bankruptcy do not just fade into the

background, but dissolve in a different problematics outside of materialism and, as it seems, outside the current legal field.

It is interesting to observe that, seemingly based on purely materialistic positions, the Chinese economic reforms initiated and carried out by the Communist Party of the PRC on the advice of the same consultants, but in a different way, in the course of the reform were called consultants and observers "Chinese economic miracle", and as a result their implementation is required by the "demystification of the Chinese economy" (Trotsuk, 2020). The economic miracle, however, was called the rapid growth of all countries – "southeast tigers". However, in contrast to teams led by outside observers (Coase & Wang, 2016), their Aboriginal people (Lin, 2017) came to pragmatic, and in relation to the massive phenomena of bankruptcy, pessimistic conclusions.

Against the background of the broadest situational variability of economic conditions, political and legal traditions of attitudes towards bankruptcy and the implementation of its procedures, there is a global challenge. The modern paradox of the phenomenon of bankruptcy in its pandemic scope: like a virus sparing no one, the influence of bankruptcy processes directly affects debtors and creditors, individuals and states, and indirectly – all bona fide participants in the economic turnover, from whose taxes the defaulters of bad debts are ultimately calculated.

There is a phenomenon of revaluation of seemingly unshakable values in the model of bankruptcy behavior. The traditionally condemned cohabitation in a bankruptcy situation finds de facto understanding of the marriage relationship in order to protect property from creditors (Gudovicheva & Dobrynina, 2019).

One of the examples of the implementation of bankruptcy behavior as a type of dishonest behavior of debtors is the so-called "bankruptcy tourism" - a change by the debtor of the place of registration at the stage of the court's acceptance of the creditor's bankruptcy application, in order to change the territorial jurisdiction, and, in the future, independently file a bankruptcy petition in court, including for the purpose of appointing a loyal manager.

The experience of circumventing the law is shared not only by the defaulters themselves, they are being promoted by the media.

Here it is appropriate to say about the importance of corporate social responsibility as an intensively developing new type of legal responsibility, contributing, among other things, to the prevention of bankruptcy behavior. Firms with a more history of positive CSR engagement are less likely to file for bankruptcy when they are in deep financial distress and are more likely to experience accelerated recovery from the crisis (Gupta & Krishnamurti, 2018; Lin & Dong, 2018; Nofsinger et al., 2019).

Today, about half of employers in the United States take personal credit into account when applying for a job, avoiding job applicants who are unable to provide invoices for moral repayment. Thus, social significance is attached to credit reports, which discourages people with bad credit from getting a job (Kiviat, 2019).

7. Conclusion

The reasons for the economic phenomenon of insolvency and its extreme form - bankruptcy are laid down both in objective economic conditions and in the antisocial behavior characteristic of persons undergoing bankruptcy. Persons inclined to evade fulfillment of obligations bring them to the stage of insolvency, often foreseeing the stage of bankruptcy and even deliberately contributing to its occurrence. Such persons, with any improvement in legislation, are looking for ways to circumvent it, and all measures of economic support are regarded as only stimulating their antisocial behavior. In the phenomenon of bankruptcy, the component of personal motivation for defaulters prevails in the implementation of economic and legal actions. The model of bankrupt social behavior contains high risks of negative impact on the stability of society.

In a pandemic, states have taken unprecedented measures to prevent massive bankruptcies of citizens and their employers. However, without taking into account sociological laws, these measures give a temporary and partial economic effect. When developing the following pools of measures for economic support of citizens and business, with the legal regulation of these measures, it is very useful to build on a comprehensive sociological analysis and knowledge of the social model of bankruptcy behavior, prevention, and its manifestation.

Acknowledgments

With deep respect, we express our gratitude to the teachers - Professor Vladimir Fedorovich Popondopulo, Professor, Doctor of Law, Honored Scientist of the Russian Federation, for his leadership throughout the course of authors' scientific and pedagogical career, as well as the interest that arose in them thanks to his works on the issues that served as the source of interest in the laws of the phenomenon and further writing this study, and Professor Valery Konstantinovich Potemkin, Doctor of Economics, Professor, Honored Scientist of the Russian Federation, Full Member of the Russian Academy of Natural Sciences, St. Petersburg Academy of Personnel Management, Russian Academy of Investment and Construction Economics for scientific advice, selfless dedication to science and a willingness to support the student in the search for the unknown.

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