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КРИМИНОЛОГИЧЕСКАЯ ПОЛИТИКА В СФЕРЕ ПРЕДУПРЕЖДЕНИЯ ПРЕСТУПНОСТИ: ПРОБЛЕМЫ И ПЕРСПЕКТИВНЫЕ НАПРАВЛЕНИЯ

АННОТАЦИЯ. В данной статье рассматриваются теоретические подходы к вопросу предупреждения преступности; подчеркиваются характерные черты социального устройства в качестве факторов, обуславливающих выбор той или иной криминологической стратегии. Подчеркивается важность адаптации институтов общественной безопасности к новым реалиям. В этой связи, авторы указывают на криминологическую политику как на комплекс наиболее эффективных и одновременно наиболее гуманных средств противодействия преступности. Особое внимание уделяется базовым принципам криминологической политики; авторами приводится структурный обзор анализа криминологической ситуации, а также программы приведения в действие криминологических методов предупреждения преступности.

КЛЮЧЕВЫЕ СЛОВА. Криминологическая политика, криминология, предупреждение преступности, преступность в переходном периоде, правовые институты, уголовная политика.

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CRIMINOLOGICAL POLICY IN THE FIELD OF THE CRIME PREVENTION: PROBLEMS AND PROMISING DIRECTIONS

ABSTRACT. The article examines theoretical approaches to the issue of crime prevention, underlines specific features of social structure as the factors determining the choice of this or that criminological strategy. It lays stress on importance of adaptation of the social security institutions to new realities. In this regard, the authors point at the criminological policy as a complex of the most efficient and at the same time the most humane tools of crime prevention. The authors pay special attention to the basic principles of the criminological policy; they bring forth a structural overview of the criminal situation analysis and implementation of the crime prevention methods.

KEYWORDS. Criminal policy, criminology, crime prevention, criminality during the transitional period, legal institutions, crime policy.

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Under the circumstances of the modern world, characterized by severe social conflicts in the time of transformations in the global policy and economy, the counteraction to criminality becomes one of the most challenging tasks. Many countries suffer from organized crime in such spheres as financial operations, drug trafficking, human trafficking combined with political corruption; their escalation in the recent years jeopardizes reformation processes, in the first line, in actively developing countries. The situation is compounded by certain issues regarding marginalization of society, misunderstanding of the law, changing of living standards. There are numerous social researches in such countries proving that broad masses of population lack the sense of safety towards criminality, especially pointing out high level of corruption [1].

Apart from that, other manifestations of anti-social behavior take place as well; moreover, all of them are more or less interconnected with each other. The professionalization of criminality is revitalizing; the raising underground economy enhances the additive effects on general population; it requires the proper reaction from the side of society and reformation of legal institutions.

It is a common knowledge that the reasons of the rapid growth of criminality not only lie in the sphere of legal institutions or, to be more precise, their inadequacy, but it is also based on subjective characteristics of the society on its transitional stage. However, there really are certain significant issues in the legal systems; they mostly have to do with inefficient (sometimes even chaotic) management of anti-criminal processes: legal policy is not systematized enough, while practical steps are either formal or even ignored. In fact, we can state that the term of “criminal policy” still is on its development stage, and its content remains unclear.

Countries that are on their development stage have undergone serious transformations in the recent past. Those transformations brought with them new crime-related challenges that required fast adaptation of legal system. It could not be simple due to the following reasons: previous concepts of anti-criminal policy were destroyed or compromised, while practical experience based on them was ignored or forgotten. Thus, we can merely speak of the further development of existing scientific basis, more likely we should call it creation of completely new vision, development of new models of anti-criminal activity able to neutralize negative effects of criminalization of public relations [2]. In this regard, we can mention different approaches to anti-criminal policy (from “liberal” to “strict”), victimology, criminal-procedural, criminal executive, investigative measures etc.

Criminologists from some Western European countries mention certain negative tendencies as well: increase of the number of violent crimes, sense of defenselessness against the criminality among the citizens, involvement of relatively young people into criminal affairs, inefficient system of punishment. Regarding the reasons of the anxiety, the researchers mention increasing of unemployment rate, political extremism, ignorance of the needs of population by the politicians, conflicts between the local population and foreigners [3]. This observations are supported by statistical data from Belgium, where the number of cases of homophobia increased 5 times from 2008 to 2017¹, and number of violations against the immigration law increased by about 40 % from 2007 to 2017².

Official reports from the Supreme Court of the People’s Republic of China mention about one million of criminal cases completed in 2015 and 1,2 million of criminals sentenced. This is about 7,5 % and 4 % respectively more than in 2014 [4].

¹ Registered cases of homophobia in Belgium from 2008 to 2017. URL: <https://www.statista.com/statistics/536084/homophobia-cases-in-belgium>.

² Ibid.

From one side, it demonstrates the effectiveness of the Supreme Court; from another side, it suggests that certain negative tendencies in dynamic of statistics regarding criminal cases exists also in China. Considering the amount of the population of the People's Republic of China — 1,369 billion of people in 2018³ — we can make conclusions about the “major part” of the population of the Eastern Asia.

Legal institutions and even the effective system of crime-prevention and punishment does not let us speak of the “criminological policy”. At the present day, criminology is searching for new methods, new directions of anti-criminal policy that are mostly not used by the legal institutions. At the same time, there is numerous publications aimed to analyze crime, but not criminality in its interconnection with its determinants, i.e. social, economic, political, cultural phenomenon that influence the criminal situation. No need to mention that without understanding of those connections is hard to analyze, predict and control criminality. Analyze of the criminal situation in a country should imply a comparison between several factors like the following ones:

1. Analyze of the criminal situation as a whole or of its particular spheres in order to evaluate the current level of criminality, its dynamic and perspectives by using statistical data about the number and character of crimes.
2. Analyze of the performance of the legal institutions, their professional competence and available resources.
3. Analyze of the cooperation between legal institutions, municipals and civil society with regard to the implementation of the criminological policy.
4. Analyze of the targets identified by the government in terms of the probability of their practical implementation.

It is known that the system of criminal justice in many countries is experiencing a crisis due to its inability to confront the threats for the public security. In some cases, it influences not only a population of one or two countries it is directly related to, but the global criminal situation, compromising the criminology and setting it back from its achievements; by this, criminology is unable to reach its goals.

The new tendency, that is typical for the modern society, is that society sees the most effective way to confront criminal tendencies not as a punishment system and even not as a system of crime prevention, but either as creation of law-abiding citizen. As Shokry EI-Dakkak mentions, the refraining power consists of two inhibitions: “noble inhibitions represented by the secondary noble instincts and ignoble inhibitions represented by the fear of the penalty” [5]. According to statistical data, coercive criminal justice is more or less effective in about 70 % of all cases [6]. Many researchers believe that changing of the criminal mind “by coercion” is merely possible at all [7].

No need to mention that penitentiary system is a heavy burden for every state. At the same time, the crime prevention on the pre-criminal stage requires may require even more resources. The installation of security cameras, providing data storage systems, educated specialists in remote surveillance along with traditional methods like patrolling potentially criminally dangerous areas can undermine economic programs of national development. Moreover, it raises moral questions. Where to draw a line between public security and privacy? How far can the idea of “Surveillance State” go? What is the essence of relations between “personal security” and “public security”? Finally, how “security” can be defined? These topics became especially relevant after the term of “war on terror” emerged; thus, in the 2005–2007 in the

³ Total population of China from 2001 to 2023 (in millions). URL: <https://www.statista.com/statistics/263765/total-population-of-china>.

United States was launched a massive surveillance campaign including interception of telephone calls, installation of security cameras etc. [8]

Whatever the answers are, certain states are actively implementing video surveillance systems; at this moment, the largest market of video surveillance market is China. Security cameras are widely used by police and traffic departments [ibid.]. At this moment, Chinese criminologists like Tan Yong stress the urgent need to install security cameras in all potentially dangerous areas of urban districts with high density of population⁴. Apart from that, there is a huge discussion about the surveillance through the internet services: shopping preferences, opinions expressed in social media could potentially influence the citizen's "social credit" score [9].

Speaking of the surveillance, legal institutions rely not only on "remote surveillance". Historically, "surveillance state" as a system of public security was represented not even by professional "bow street runners" [10], but either by involvement of broad masses of population into such activities as reporting about possible crime cases, suspects, evidences to the legal institutions on the local level. One of the most well known examples is the system proposed by Shang Yang, ancient Chinese statesman and one of the founders of Legalism. He argued that establishing of units consisting of five people each would reduce the expenses on the bureaucracy and provide an effective system of mutual surveillance [11].

Again, it raises obvious moral dilemmas. It should be mentioned that Western countries also rely on their citizens at least on the post-criminal stage. As Prof. Dr. Kerner notes, in Germany, the citizens themselves reported about 80–90 % of resolved criminal cases [10].

Thus, the most efficient way of counteraction to criminality is neither to punish the criminals nor to protect their victims, but to develop such patterns of social behavior that will exclude criminal behavior as an option. As Dmitry Shestakov notes, the "vicious circle of violence" between the state, perpetrator and society should be broken by teaching people such principles as humane attitude towards the criminal, safety and security of every person, supporting of the victim [12]. It requires a deep scientific-based understanding of how the criminal thinking is formed and reproduced. The identification of those determinants, development of specific measures aimed to transform them and their implementation are the goals of the criminal policy of a state. Accordingly, it implies a question about the position of criminal policy in the structure of the legal system. In particular, it remains unclear what are relations between criminological policy and criminal policy, criminological policy and criminal law etc. Understanding of those relations requires considering of these issues as a part of the general policy of a state [13].

According to Babaev, criminological policy should be understood as a part of criminal policy [14]. Some other researchers believe that criminological policy is an independent discipline that unites legal and non-legal methods to deal with social disproportions as determinants of criminal behavior. Thus, Lopashenko stresses the role of criminological policy as a "tool of counteraction to criminality that varies from criminal policy, although both have something in common" [15].

The international practice indicates the absence of any "special" attitude of the state to criminological policy; usually, it is recognized neither as independent scope of state activity nor as a special part of crime policy. At the same time, implementation of its certain elements is conducted on the local level of legal institutions. In this regard, research on the crime-prevention system of Japan, conducted by Foot, an American scientist, definitely would be able to provide a good example [16].

⁴ Top Video Surveillance Trends for 2017. URL: <https://cdn.ihs.com/www/pdf/TEC-Video-Surveillance-Trends.pdf>.

Studying various points of view lets us to make a conclusion that criminological policy, undoubtedly, is based on the criminal policy. However, we can speak of the mutual influence as long as findings in the area of criminological policy can shape the criminal policy. Thus, we assume that both disciplines should be treated as instruments of crime prevention.

To this moment, absence of a proper theoretical basis along with a rapid development of crime situation in developing countries urges fundamental researches to explain the phenomenon of modern criminality, its roots like criminal's personality, poor socioeconomic situation, as well as tactic and strategy of counteraction to criminality, management of related governmental institutions and non-governmental organizations. By this, basic principles of criminological policy should be as follows:

1. Principle of realism, i.e. reasonable evaluation of criminal situation, realistic target-setting, compliance of them with available resources.

2. Principle of continuity, i.e. regularity of prophylactic measures taken, fight against negligence.

3. Principle of reasonableness, i.e. validity of research results, that need to be evidence-based and scientifically proved; methodological basis to implement them properly.

4. Principle of complexity, i.e. selection of those tactics and strategies that can be effectively combined to multiply their effects.

5. Principle of task-orientation, i.e. focusing of all available resources on achieving the targets on each stage of work.

It is a common knowledge that studying the criminological situation in order to enhance the public security implies four elements. First element is a research on criminal's personality: what influenced formation of his identity from the childhood to the pre-criminal situation. Further elements are pre-criminal situation, criminal situation and post-criminal situation. All elements should be studied in connection with each other in order to develop an evidence-based complex of methods to prevent criminal situation in the future. It means that those methods should be focused on influencing the determinants of criminal behavior. However, it should also imply the reformation of post-criminal policy to mitigate the negative effects of the punishment, i.e. to develop so-called "restorative justice". To start the implementation of the criminological policy, may need do accomplish following steps:

1. Studying of the pre-criminal, criminal and post-criminal situations in their interconnection as a single causal chain.

2. Research on criminological measures aimed to neutralize determinants of criminal behavior.

3. Identifying the proper tactics and strategies to achieve the goals on different levels.

4. Research on public opinion with regard to the practical implementation to correct the work in process.

In this paper, we focus mainly on the issues typical for developing countries. We believe, however, that the essence of criminality is common for all countries independent of their political, social, economic and cultural circumstances. Nevertheless, in those countries that experience their active development stage the disproportions are more obvious, social conflicts are more severe, thus, determinants of criminal behavior can be easier identified. In this regard, results of research on developing countries are of great interest for every other country in the world as long as they can serve as material for scientific-based predictions.

Those predictions require a scientific cooperation of different disciplines. Analyzing the development landscape of criminology as a professional discipline in Germa-

ny, members of research group at the Max-Planck Institute on Freiburg mentioned several widespread problems of criminological science. Among the others, they noted that criminology as a major is available almost only at the faculties of legal sciences. At the same time, due to its specific characteristics, criminology is either an interdisciplinary field of study that brings together juridical science, psychology, neurobiology, social pedagogy, political sciences, history and sociology. Accordingly, criminology at its modern stage of development needs new forms of organization [17]. Historically, there was a large variety of criminological schools based on theories like biological theories (for example, Lombroso), psychological theories (for example, "Frustration-Aggression Hypothesis"), social-psychological theories (for example, "Labeling-Approach"), social theories (subcultural theories) [18]. Accordingly, some researchers like Ulf Steinert define criminology as non-juridical science [19].

Due to the growing importance of international relations in the era of globalization, criminological policy needs its way of intergovernmental, cross-institutional organizations. Emergence of such threats as transnational organized crime and terrorism in different forms including drug, weapon and human trafficking, money laundering influence international relations [20]. As an American Senator John Kerry mentioned, now "vast poppy fields in eastern Turkey are linked to the heroin dealer in downtown Detroit" [18]. Analyzing social determinants of a globalized criminal behavior requires an adequate globalized criminological policy.

However, it is necessary to mention that by "globalized criminological policy" we do not mean imposing practices common for certain countries on others only because they were considered effective for a certain time and in a certain place. Stephan Quensel and his colleagues note that excessive relying on Anglo-American criminology would have either negative influence on the German criminological policy [17]. No need to explain that cultural, social, economic differences, for example, between USA and East Asian countries would require an approach that would be even more "individual".

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