

Scientific Development of the Terminological Concepts in the Sphere of the Prevention of Penitentiary Crime

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Abstract: The study is considered the terminological concepts in the sphere of the prevention of penitentiary crime. Formation of scientific and reasonable strategy of impact on crime in system of execution of punishments is one of essential and really feasible tasks today, the concept “penitentiary or criminal and executive policy” is implementer introduced into scientific and practical circulation. Thus, penitentiary policy in the sphere of crime prevention, it is necessary to understand as system of social and legal measures of the destroying (anti-criminal) impact on various destructive manifestations in the conditions of execution of punishments.

Key words: The term “criminal policy”, the term “crime control”, the concept “penitentiary or criminal and executive policy”, penitentiary policy, the conceptual and terminological aspect

INTRODUCTION

In modern scientific literature and journalism in the official documents and regulations devoted to opposition of crime the various conceptual apparatus and terminology are used. They are borrowed from various areas of scientific knowledge and urged to express essence of this activity whenever possible most capaciously. It both criminal policy and fight (war) against crime (with its concepts and strategy) and control over crime, reaction, impact on it, counteraction of crime and etc. (Babayev *et al.*, 2003).

The diversity, lack of their unification, unsystematic character of the terms and concepts, applied to designation of the same functions in general, creates certain difficulties as behind each of them there is a different contents and sometimes, it is difficult to understand sense of idea in a concrete case.

Differentiation of various terms and concepts designating a certain kind of activity has theoretical and also applied value, in particular for rule-making for the organization of work on opposition of crime, differentiation of competence of the subjects which are carrying out this task for elimination of their mixture and duplication of their functions.

Due to the aforesaid, the conceptual and terminological aspect of legal practice in the sphere of counteraction of crime gains important scientific and

practical value taking into account that having defined word meaning, “we will relieve the world of a half of its delusions” (Kostrova, 2003).

High level of philological providing and registration of legal activity, increase in the thesaurus (glossary) one or another sphere of scientific knowledge objectively testifies to extent of its development and expansion (Kosovan, 1998).

In law the form (including language) admittedly is not simply expression of the contents and its continuation. Therefore the law needs such language facilities which precisely would designate legal concepts, competently and clearly expressed ideas of the Legislator. And formation of sense of justice as citizens and the law enforcement official depends on legal culture (one of which components is the standard of speech) (Kuznetsova, 1973).

The special attention is deserved the criminological terminology as it should not be interpreted randomly, or by the principle of analogy. Its application must have an economical character as it is connected with the most essential restrictions of the rights of the personality.

Correctness of perception, availability of the maintenance of criminological terminology are significantly influenced a correctness of use of terms, their compliance to grammatical and stylistic rules and logical regularities of definition of concepts.

MATERIALS AND METHODS

Main part: Coming back to the considered problem, we can notice that one of the most often found terms in relation to counteraction of crime is “policy”. In the most general view, the policy is activity of public authorities and public administration, reflecting a social order and economic structure of the country and also the activity of parties and other organizations, public groups determined by their interests and purposes (Russian Policy of Law, 2003).

Within public policy there are various structural components, including policy of law as a complex of the purposes, measures, tasks, the program sets realized in a coverage of the right and by means of the right as a way of the organization of legal life are marked out.

And here it should be noted that the term “strategy” used in criminological literature is originally borrowed from military science and has also value of art of the management of public, political struggle; arts of planning of the management based on the correct and far-reaching forecasts. The term “concept” is understood as the main point of view leading idea, the leading plan, a certain way of understanding, interpretation of any phenomena and the term “doctrine” is given as system, leading theoretical or political principle (Ozhegov and Shvedova, 1997).

Apparently, the specified terms are faithful; however the ratio of volume of their contents in relation to the criminological sphere and various systems of coordinates not equally and deserves special attention.

So for example, one of the major political documents is the Concept of policy of law of the Republic of Kazakhstan in which also the policy in the field of counteraction of crime is partly expressed also the term “criminal policy” is used. Thus in the specified concept also strategic lines of counteraction to the criminal phenomena and processes are planned (Anonymous, 2010).

The term “criminal policy” is also not new as it was included in a scientific turn at the beginning of the XX century and was used mainly in narrow (applied), special criminal and legal (retaliatory and repressive) sense.

However at the beginning of the 70th g of last century the term “criminal policy” was “reanimated” already in modern interpretation. One of the first representatives of classical law school were suggested to restore it, having given wider contents to it. So, Gertsenzon wrote: “The criminal policy is a part of the general policy of the socialist state along with policy economic, welfare, etc. It directs activity of public

authorities and the public in fight against crimes and other socially dangerous acts, based on exact performance of laws”.

Zagorodnikov and Struchkov (1981) considered that the criminal policy represents such direction of the Soviet policy within which initial requirements of crime control by means of development and implementation of a wide range of precautionary measures, creation and application of the precepts of law of material, procedural and executive penal law establishing criminalization and a penalization and when it is necessary, decriminalization of acts and also by means of definition of a circle of admissible measures in crime control state enforcement are formed.

Ismailov (1990) characterized criminal policy as activity of the state, carried out at the level of the political management, management, acceptance and implementation of concrete decisions and having a basic purpose definition and carrying out in life of tasks, forms and the maintenance of purposeful measures of crime control (impact on it), the organization and ensuring optimum performance and development of this system on appropriate ideological, legal, information, resource base and in interaction with other social systems.

Korobeyev *et al.* (1991) understood the Soviet criminal policy as the general line defining the main directions, the purposes and levers on crime by formation of the criminal, criminal procedure, corrective-labor legislation, practice of its application and also by development and the implementation of measures directed on the prevention of crime.

Panchenko (1988) proceeds from the analysis of a ratio of criminal policy with public policy of crime control: “Despite distinctions in volume of the contents, intrinsic fundamentals of criminal policy and policy of crime control same. It consists that the criminal policy forms the main line, the strategic and tactical directions of crime control”. Criminal policy concerns all measures of impact on crime in this connection it is actually identified with concept of fight against crime.

Having analysed various points of view on a case in point, Boskholov (1999) gave to criminal policy the justified complex and compound, polyvariant and interindustry character: and it is the public policy of crime control expressed in the relevant directive acts (laws, presidential decrees, government resolutions) and scientific theory and synthesis of the corresponding political, sociological and legal knowledge and a special type of the social activity directed on active offensive counteraction of crime and to other offenses.

Thus, it is necessary to understand public policy of crime control as criminal policy in general at all stages of its modern development. The last scientific generalizations based on the system, interdisciplinary and

sociological approaches including legal logic and the theory of safety also testify to it. According to them criminal policy it is objectively existing social and legal phenomenon connected with implementation of special measures of counteraction of crime. It is shown in certain forms (legislative, law-enforcement and judicial); within criminal policy its directions (actually criminal and legal and also criminal procedure, law-enforcement, criminal and executive, criminological, criminalistic) are allocated (Tuiyabay, 2005).

Apparently, the concept "criminal policy" is more applicable to theoretical (scientific), doctrinal conceptual level in the smaller it is to law-enforcement and it does not contact only with the criminal law. In official documents, regulations, in the theory the terms "public policy of crime control" and "state policy of law in the field of crime control" are also used. Thus, it is necessary to notice that public policy of crime control can be carried out only on a legal, including criminal and legal basis and in legal forms. The term "criminal policy" is practically not used in domestic and international regulations that it is not casual. The matter is that the concept "criminal policy" is represented nevertheless not quite legal and really capturing the essence of the formalized of phenomenon in it. Rather, it expresses public policy of counteraction of crime and unites not only the legal but also social, economic and other methods of impact on crime and also determining it and accompanying it factors. In our opinion, all this in total more corresponds to understanding of criminological, than any other policy.

In international agreements of universal character (for example in the International convention about fight against financing of terrorism, in the Shanghai convention on fight against terrorism, separatism and extremism), the United Nations during holding seminars, the congresses on fight against crimes and the treatment of offenders use the term "crime control". It is also widely applied in the legislation, in official documents, scientific works on criminology, in operational search activity, in military legal acts.

However, recently the given term not unreasonably became a criticism subject as nevertheless means only the state activity and as subjects of such fight assumes exclusively law-enforcement bodies.

One researcher, referring to interpretation of the word "fight" by Dall and Ozhegov as "to seek to destroy, eradicate something; to fight, seeking to win; attacking, to try to master in single combat", consider that the crime can not be destroyed because it is the inevitable concomitant of society and state.

Others motivate the opinion with that the interest in fight of those who is urged to conduct as obliges it

against crime, often passes a borderline which shares the right and arbitrariness, legality and lawlessness that it is turned the law enforcement official into the hostage of a criminal statistics, often reduces his research to notorious "fight" for crime indicators. Exactly so they explain concealment of crimes from registration and the account, the manipulation statistical data for creation of imaginary wellbeing, which are in bodies of punitive justice and prosecutor's office.

The analyzed term nevertheless has the right for existence for the following reasons. Apparently from international conventions, acts, official documents and scientific works, this term means versatile activities of law enforcement agencies for identification, disclosure, investigation of crimes and also for their prevention. And fight as a kind of activity is possible only from the government bodies allocated with the corresponding law-enforcement functions in accordance with the established procedure. At the same time, it is necessary to recognize that the paradigm of "crime control" has essential defects (Truntsevskiy, 2003).

However in a number of works the term "control over crime" is used and not fully corresponded to all volume content of law-enforcement activity. So, the Explanatory dictionary of Russian defines control as check and also continuous observation for the purpose of check or observation. Meanwhile, law-enforcement activity consists not only in check and observation but also in acceptance of various active measures of impact on crime (the prevention, suppression, investigation of crimes). Besides, certain scientists note that still there is no convincing justification to use in criminology of the concept "control" (Kharitonov, 1997).

RESULTS AND DISCUSSION

Other researchers also speak about deduction of crime at socially tolerant level, however, these terms not absolutely precisely reflect essence of the activity falling under this concept.

First, behind each term there has to be a certain contents opening activity of these or those bodies and in this case it is not clear, what actions practical workers have to carry out. Secondly, these terms generate a number of additional questions (what socially acceptable (tolerant) crime rate has to be; who has to define, control it; how it is possible to estimate really this level, etc.)

The term "counteraction of crime" is also ambiguously perceived by some scientists-criminologists. So, Dolgova considers that from this concept it is not absolutely clear, who to whom counteracts the state of crime or crime to society, the state that it does not capture

the essence of the considered activity, all complex of measures of impact on crime as on the social phenomenon with a difficult cause and effect complex.

On the contrary, Truntsevskiy (2003) notes that in international agreements of universal character in relation to crime the concept "counteraction" is applied just because it means the action interfering other action; resistance to action something, keeping steady situation; opposition.

Counteraction includes both suppression of the prepared and committed crimes and adequate responses to the committed crimes and also other measures for crime prevention.

Thus, stated above is allowed to claim that for designation of the diverse activity aiming to achieve decrease in crime such terms as "crime control" (as the special and state function) and "counteraction of crime" are the most acceptable (as all-social function).

The ratio of these terms consists that crime control is conducted by the law enforcement agencies allocated with lawful powers on implementation of the relevant activities.

Counteraction of crime is carried out also not by specialized subjects of the prevention of crimes who do not possess law-enforcement functions and apply other measures complicating commission of crimes or interfering it.

Not less hot polemic accompanies also to the discussion round concept crime prevention. So for example as the prevention of crimes is understood as the activity of the state and society directed against crime for the purpose of its deduction at minimum possible level by means of impact on the reasons and conditions, generating of it (Vasiliyev, 1976).

The term "counteraction of crime" very closely interacts with the term "crime prevention". Their similarity consists that at counteraction various government bodies and other organizations, carrying out the measure complicating commission of crimes or interfering to it, promote thereby decrease in their quantity, i.e., carry out their prevention.

Distinction of the specified terms is that at counteraction of crime it is not only about the prevention of crimes but also about the mediated participation of government bodies for example in suppression, detection of offenses. The prevention is carried out at three levels: all-social, special and criminological and individual.

All-social level (the general prevention) includes the activity of the state, society, their institutes directed on resolution of conflicts in the field of economy, social, moral and spiritual life, the legal sphere, etc. Measures of the all-social prevention have wide range and influence

practically all types, groups of the reasons, conditions and other crime determinant. Individual level (individual prevention) represents a specification of all-social and special and criminological measures concerning particular persons which behavior enters the conflict to the legal norms.

At counteraction of crime we can say that it is not about the activity of the state, society and their institutes directed on permission of various social and legal contradictions. Besides, government bodies at counteraction of crime do not carry out individual prevention (Kosovan, 2004).

The concept of impact on crime as difficult interaction of a number of elements (object, the subject, the purposes and measures of influence) is still big on the volume and it expresses activity of society in opposition of crime. Complete set of subjects and measures (or one subject operating with system of measures) forms the system influencing crime.

Really, any interaction with socially dangerous act (the prevention, fight, control, opposition) is anti-criminal influence. Owing to the width of this concept it allows to capture all phenomena and processes (not only positive), having impact on crime thus to keep and synthesize (to systematize) all other approaches to a crime assessment for reduction of danger in all spheres of social life.

CONCLUSION

Thus, the adduced arguments allow formulating some conclusions. The conceptual and terminological aspect of modern criminological policy deserves close attention in all various legal activities: law-making, enforcement and enforcement.

For designation of the conceptual, doctrinal content of counteraction of crime by the most volume and therefore the term "strategy of impact on crime" reflecting essence of domestic criminological policy is submitted preferable.

The concept of criminological policy is represented as the most general in relation to such categories as criminal, criminal and executive, criminal procedure and others as in the semantic value contains the instruction on evidence-based activities for counteraction of crime, development and implementation of measures of its prevention that it is also covered by subject domain of criminology.

Such strategy proceeds from a certain political ideology and assumes existence of the general concept, definition not only the immediate but also remote purposes and ways of their achievement, various

measures of various subjects of anti-criminal influence suitable for application in various, changing conditions.

Formation of scientific and reasonable strategy of impact on crime in system of execution of punishments is one of essential and really feasible tasks today, the concept "penitentiary or criminal and executive policy" is implementer introduced into scientific and practical circulation. Thus penitentiary policy in the sphere of crime prevention it is necessary to understand as system of social and legal measures of the destroying (anti-criminal) impact on various destructive manifestations in the conditions of execution of punishments.

Thus objectively necessary large-scale state strategy of impact on crime has to assume planning and implementation of evidence-based system of anti-criminal actions at all levels of the social organization.

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