

Criminal Law as the Main Means of Combating Crime

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Abstract: The problems of combating crime have been and remain relevant, especially taking into account the fact that the progressive development of a person, society, and the state is only possible in conditions of ensuring security. The dynamism of the development of the modern world constantly creates new challenges and risks, which requires the adoption of adequate response measures. The goal of the work is to consider the problems that arise in the fight against crime, forming the course to eliminate them, both by changing the current legislation and by adjusting the established approaches and methods. To achieve this goal, the author set tasks, in particular to identify reasons of the ineffectiveness of certain criminal legal means of affecting crime and mechanisms of implementation. Using a wide range of general scientific, private scientific and special methods, this work analyzes statistical data, legal provisions, legal institutions, materials of theoretical and empirical research. The use of a wide range of methods allowed us to focus on the problems caused by the imperfection of legislative regulation, the lack (inefficiency) of criteria and indicators for evaluating activities, potential and real risks that occur in the legal provisions (legal institutions), as well as those that arise in law enforcement practice and lead to negative consequences, to investigate the causes and conditions of occurrence, problems in the process of interaction and continuity. The results of the conducted research allowed us to formulate a number of proposals from the point of view of complexity, consistency, and coherence, to identify areas for improving legal regulation and organization of activities, in particular in terms of understanding risks in law, the ability to correctly assess emerging situations and make decisions, which should allow us to have a positive impact on the effectiveness of combating crime. In addition, the obtained results will expand the knowledge of criminal law science, issues of authorities integration into the state and society, will contribute to enhancing the quality of the criminal law and other instruments aimed at countering crime.

1 INTRODUCTION

Combating crime involves systematic activities of various state bodies aimed at ensuring compliance with the rules of the criminal law. The task of maintaining a stable level of law and order and security in the country has been and remains one of the priorities, since only in such conditions is the positive development of a person, society, and the state possible.


From the whole set of means of combating crime for a long time, scientists and practitioners distinguish criminal law as the main (basic) ones (Shargorodsky M.D., 1945; Rarog A.I., 2013; Avdeev V.A., 2013). It is difficult to disagree with this statement, since it is obvious that the criminal law quality largely affects

the effectiveness of law enforcement activities, as a result, the achievement of the expected positive result.

Determining the relevance of the topic under consideration, it seems appropriate to state the following facts:

no state in the world, under any political regime, or at any level of legal regulation, has managed to defeat crime;

neither humanization nor repressive (punitive) policies helped to defeat crime. In some cases and countries, on the contrary, extreme measures lead to opposite effects, causing risks of uncertainty, ambiguity, different interpretations of the current legislation, disregard for the principles of law, violation of the rights and freedoms of some to

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"please" others (groups of people, views, positions, etc.), and predetermine negative consequences in the form of double standards. Loud statements about democracy, about the prerogative of human rights and freedoms obtain a different meaning by political and economic goals, ambitions, which to a certain extent discredits existing approaches and stereotypes, undermines the foundations of society and the state, and "justifies" the policy of interference in the internal affairs of other countries. This can be considered as a criminal activity.

Thus, criminality has firmly entered our lives, in a certain sense, has become a reflection of its vices. Criminality seems to be caused by the society itself, by the state structure, and the person. Therefore, it is reasonable to identify this as the initial object of influence, considering all the others as derivatives.

The relevance of this topic is also due to the fact that, despite the measures taken, permanent changes and additions to the criminal legislation, it is still far from perfect. The increasing social stratification of the population, newly formed challenges, threats and risks that require understanding, taking appropriate response measures are refracted by internal factors and world perception.

2 MATERIALS AND METHODS

To consider some of the problems that determine the effectiveness (ineffectiveness) of countering crime, a large number of regulatory legal acts regulating various spheres of activity were analyzed. Theoretical and practical materials were considered, empirical studies were conducted, and a wide range of general scientific, private scientific, and special methods were applied. Among the main methods, we denote:

the dialectical method, which was used to consider facts, events and rules in their dynamic development;

the comparative legal method, which was used to see different approaches to the implementation of the existing instruments of combating crime. The comparative legal method was used to compare normative legal acts, legal institutions, facts and phenomena, which made it possible to understand and evaluate the achieved (not achieved) results;

the systematic method which was used to consider facts, phenomena, events, and activities in a single system;

the structural method, which allowed us to consider the structures inherent in the objects of research, the issues of their interaction, to identify the existing problems of continuity;

the comparative method, which was used to compare statistical data and make conclusions about the quantitative changes;

the method of hypothesis formulation. Given that almost any scientific research is based on a certain set of accumulated knowledge, this method allowed to find confirmation or refutation of assumptions about possible causes and promising directions, thereby better understand the reasons and, finally, to outline ways of improvement;

the method of analysis and synthesis that involves the selection of individual components of objects, their study, and the subsequent connection of the results obtained for a more complete understanding and prospective dissemination of the results obtained to the entire object;

the historical method. Individual facts, phenomena, activities state bodies, individual legal institutions, and public organizations were considered in their historical development;

the logical method. The research of the object was carried out with the help of the laws of formal logic and the search for their confirmation (refutation);

the formal-legal method. The research of the object at the level of abstract legal concepts and categories without taking into account the interdependence of external and internal factors.

In addition, for a more objective understanding of individual issues, other special research methods were used.

3 RESULTS AND DISCUSSION

The analysis of the amendments and additions made to the Criminal Code of the Russian Federation (hereinafter referred to as the Code) allows us to note that one of the significant reasons for its permanent adjustment can be identified as the lack of development of criminal policy. Accordingly, there is inconsistency, haphazardness, lack of elaboration of some of the adjustments made (Golik Yu.V., Korobeev A.I., 2014; Sergevnin V.A., Avdeev V.A., Avdeeva O.A., 2015). Only for the period from February 2015 to February 2021, the Code was updated by 91 federal laws, that is, on average, changes and additions were made once a month, some articles were subjected to such improvements repeatedly. On the one hand, this may be perceived as a reflection of the dynamic changes taking place in the world and the country, on the other hand, such instability of the Code may indicate other problems existing in the internal and external environment, attempts to solve them in this way.

The current trend of such updating of the basic criminal law does not contribute to stability, understanding of the current criminogenic situation, determines the formation of relevant problems in law enforcement practice, and indicates the need to bring law-making activities in a certain order from the point of view of consistency, complexity, consistency, timeliness, completeness and validity. This can also be regarded to a certain extent as a result of "development disease", taking into account the short run of the Code. One can definitely assume that these criminal-legal means and targeted legal "adjustments" of the criminal legislation were attempts to increase the effectiveness of its regulatory impact, to achieve stability in society. It is obvious that this allowed to influence the state of crime, partly to prevent certain negative manifestations.

3.1 Comparative Legal Analysis of the State of Crime in Russia

The analysis of statistical data provided by the Judicial Department under the Supreme Court of the Russian Federation shows a tendency to reduce the number of convicted persons under sentences that have entered into legal force. If in 2015 there were 734,581 such persons, in 2019 – 598,214 people (-18.6%). By compositions,

particularly serious crimes: in 2015, 41,981 people were convicted, in 2019 – 31,831 people (-24.2 %);

serious crimes: in 2015, 173,047 people were convicted, in 2019 – 129,548 people (-25.2 %);

crimes of moderate severity: in 2015, 177,047 people were convicted, in 2019 – 131,824 people (-25.6 %);

minor crimes: in 2015, 342,506 people were convicted, in 2019 – 305,011 people (-11%).

These data allow us to state that current positive trends are the result of the effective criminal law enforcement and its quality.

3.2 Quality Problems of the Basic Criminal Law

There are polar points of view on this issue. Some scientists and practitioners state that there are no serious problems in the Code; others state the opposite (Golik Yu.V., Korobeev A.I., 2014); still others propose new drafts of the criminal and penal enforcement laws (Lopashenko N.A., 2016; Esakov G.A., 2017; Seliverstov V.I., 2017; Lopashenko N.A., Kobzeva E.V., Khutov K.M., Dolotov R.O., 2017); the fourth, "tired" of numerous disputes at

scientific and representative events of various levels, agree that there are problems, but suggest to let everything remain unchanged as far as the problems are already known and thus the practice of their resolution has developed; the fifth, having joined the convergence processes of Russian and foreign law (Antipov A. N., 2015), are ready to implement even something that should not be done under any circumstances; the sixth point out (Zubkov A. I., 2006) the need for a thoughtful (scientifically and economically sound) approach, taking into account the Russian mentality; the seventh do not practically pay any attention to the existing shortcomings and gaps in the Code.

Despite all the variety of approaches, positions and opinions, it remains the fact that Russia has managed to create a criminal law in a short period of time that meets the requirements of social development, to reorient itself as much as possible (where possible) to other, alternative types of criminal penalties, and to take certain steps towards changing the existing penitentiary system and improving it. All this has undoubtedly had and is having a preventive and educational effect on persons held in institutions of the penal correction system.

3.3 Risks as a Factor of Inefficiency of Legal Regulation

Despite the positive results achieved, it is necessary to focus on the existing problems, the challenges that determine the direction of further development.

Initially, we will focus on the consideration of risks and risk-forming factors present in the rules of criminal law, penal enforcement law, the provisions of the theory of operational search activity; we will indicate their nature, sources of occurrence. In this context, it is worth agreeing with W. Beck that our society is gradually turning into "... a society of risks" (Beck U., 1999). This is due to the processes of globalization, attempts to proclaim "unrestrained democracy" in a number of countries, in fact, a certain mixture of democracy, totalitarianism, authoritarianism, which fills it with risk-forming content.

It is obvious that in a democracy, any law is a compromise of opinions, views, positions. That is, some risks are initially laid down in it (Antipov A. N., 2018), which can later negatively manifest themselves in law enforcement practice, in particular,

have a negative impact on the effectiveness of the regulatory impact of the rules, both because of their imperfections and problems in the implementation mechanisms;

form situations that lead to ambiguity and uncertainty of interpretation and, accordingly, law enforcement;

determine the imbalance of the principles of law (in particular, justice (for example, in relation to the criminal and the victim), proportionality, equality of all before the law), in some cases they can "make" the norm actually not working.

For example, an ambiguous situation has developed in the understanding of the effectiveness of achieving the goals of applying criminal penalties (part 2 of Article 43 of the Code), the functioning of the legal institution of conditional early release of convicts. The lack of appropriate indicators of assessing the achievement of the penalties goals, firstly, leads to a lack of understanding of the current situation, secondly, does not allow us to talk about any positive or negative results, and thirdly, does not contribute to identifying trends. Therefore, the designated goals of the application of punishment are perceived as certain rules-goals. In our opinion, as an achievable goal, we can only talk about the isolation of a particular person from society for a certain time, with all the resulting legal restrictions, problems, uncertainties and risks.

Article 52 of the Constitution of the Russian Federation states: "The rights of victims of crimes and abuses of power are protected by law. The state provides victims with access to justice and compensation for the damage caused." Considering the mechanism of implementation of this article, in terms of compensation for the damage caused, from the position of the rule of Article 79 of the Code, where, as one of the criteria for considering the issues of conditional early release of convicts, it is stated " ... compensated for the damage (in whole or in part) caused by the crime, in the amount determined by the court decision ...", we conclude that the rule of the Code narrows the constitutional provision and the enshrined guarantees, in fact transferring the determination of the amount of compensation for the damage caused either to the discretion of the court, or in the civil law relations of the parties.

It turns out that the state, having partially implemented the principle of justice, through the entry of a guilty verdict into legal force, is eliminated from further work with the victim. It can be concluded that in this case state provides more preferences to the criminal than to the law-abiding citizen. The reference to the fact that the former convict will have more opportunities to pay off the damage at liberty can hardly be considered as reasonable, if only for the reason that in this case the state should, at least:

to establish a certain period of repayment of the damage caused (as it is done, for example, in administrative offenses);

to identify the bodies responsible for this area of work;

to enter this indicator in the control form;

to determine the order of actions in case of non-performance.

But none of this was done. Citizens in this case turned out to be not protected from criminal encroachments (Frolova E.V., Medvedeva N.V., Senicheva L.V., Bondaletov V.V., 2015).

Thus, we can talk about the presence of a number of problems, in particular:

failure to comply with the constitutional guarantees in respect of the victim;

imbalance of rights and obligations of different categories of persons, preference in relation to offenders;

reduction in the motivation of convicts to make amends (remorse, awareness of the harm caused), in terms of compensation for the damage caused;

belittling the role of labor and legal education in relation to convicts, which clearly does not contribute to the formation of a positive legal consciousness, does not contribute to the prevention of repeated crimes.

3.4 Problems of Interpretation of Statistical Data and the Quality of Evaluation Criteria and Indicators in the Context of Improving the Effectiveness of Combating Crime

In the context of this problem, we draw attention to the need to adjust the existing criteria (Efremova I.A., 2018), for example, granting conditional early release (Article 79 of the Code). Approximately 79% of the experts surveyed in the framework of scientific research on this issue spoke about the feasibility of this. The prepared proposals turned out to be unclaimed.

In this regard the US experience may be of big interest as far as it conducts experiments for several years (The Economist Newspaper Ltd Aug 20th 2016; Collins J. M., Clark M. R., 2000) using certain machine algorithms to predict the risks of further illegal behavior of individuals (for example, when released on bail, making decisions on various issues, in particular, the use of the institute of parole). In Russia, the possibilities of using artificial intelligence in solving such issues are also being considered (Stepanenko D.A., Bakhteev D.V., Evstratova Yu.F., 2020).

We note that the risks laid down at the stage of law-making, acting as a kind of primary basis, may later form other risks derived from themselves.

All work on combating crime should be based on the totality of knowledge, especially the causes and conditions of its generating skills and counteraction skills. At the same time, in recent years, the situation is not entirely clear in relation to criminology, the science that deals with these issues. There is a weak demand for specialists who prepare forecasts for the short-term, medium-term and long-term prospects with reasonable proposals and estimates of their implementation. At the same time, it hardly requires justification that understanding the causes and conditions of committing crimes, among which the main place is occupied by social and educational blocks, increases the effectiveness of combating crime (Varygin A.N., Chervonnykh E.V., Klementyev A.S., Pimenov P.A., 2019). The consistency, complexity, and coherence of various types of activities, including those carried out within the framework of legal, labor, moral, and other education, are a logical complement to the understanding of the objects of influence. This may initially reduce the number of individuals focused on criminal activity.

As the second set of questions aimed at understanding the situation and responding appropriately to it, designate the effectiveness of the evaluation criteria and indicators. Appealing exclusively with quantitative data only gives an understanding of whether it has become more or less, but in no way better or worse, does not form a qualitative component. On this basis, it is impractical and not entirely professional to draw conclusions, formulate proposals for correcting the current legislation, improving organizational, technical, methodological and other components. Some indicators, as practice shows, can be considered only relatively, for the reasons that some of the criminal acts are in the sphere of latency (for example, mobile fraud); some indicators depend on the allocated funding and the current situation in the state (for example, the implementation of the Federal Target Program "Development of the Penal System for 2018-2026"); some indicators require logical rethinking.

3.5 Continuity and Cooperation in the Fight against Crime

As the next problem that affects the effectiveness of combating crime, we will highlight the organization of interaction and continuity in the activities of

federal authorities (the integration of authorities into society and the state).

Any state body operates within the framework of the designated competencies, solves the designated range of tasks, while the problem still lies in the organization of their interaction, ensuring continuity. Indicators that reflect the interdepartmental state of affairs should be present in the general system of indicators and assessments of each state authority, especially in the field of combating crime. Such interdepartmental areas include issues of legal education, labor education, prevention, avoidance of illegal acts, maintenance of socially useful relations, post-penitentiary socialization, and much more, where specific individuals, public organizations, state organizations and authorities are involved.

The ongoing processes in the aspect of combating crime seem appropriate to perceive and consider as a kind of synergistic complex. In the complex, as components, it is proposed to take into account the state of the standard of living in the country, and the organization of education, and the conditions of serving imprisonment, and the mentality of the population, and the direction of the functioning of legal institutions, and even the length of time during which certain rules are applied, and much more. In this case, it is possible to build a certain mathematical model based on neural networks, which allows not only to constantly improve it in real time, to obtain results, evaluating and interpreting them, to form appropriate management decisions, proposals for improving legal regulation, improving various organizational aspects.

3.6 Educational Impact and Its Role in Combating Crime

It is obvious that the educational impact should be exerted on a person from birth and continue in one way or another until his death. Since the appearance of signs of deviant behavior, it should increase. If, after all, it was not possible to protect a person from committing a crime, then during the serving of the sentence, the intensity of the educational impact should increase significantly and not stop after, during the post-penitentiary socialization, until a conclusion is made about the inexpediency of such an impact. At the same time, it assumes consistency, complexity and coherence, and should be implemented by various state authorities and public organizations in cooperation, ensuring continuity within their competence. This determines the level of integration of the authorities into the state and society. In practice, there are still a number of problems in this

area. For example, the issues of organizing the post-penitentiary socialization of convicts have not been resolved for more than ten years.

4 CONCLUSIONS

To sum up, it should be noted that there are

- undoubtedly problems in the education of law-abiding citizens, due to various reasons of an objective and subjective nature;
- undoubtedly, we can talk about different possibilities and determine by this attitude to the law;
- undoubtedly, much depends on the society in which a person is born, on what is "put" in them at the beginning of their life, but the final choice is left to the person – the whole life consists of a constant series of choices and they are not always made correctly.

This is the task of the state and society to create such conditions that it is unprofitable to commit crimes. Until this happens, it is necessary to state that the prison is a terrible invention of mankind, but nothing better has been invented to replace it, so we have to be content with what we have. All attempts to criticize it, to improve the conditions of serving a sentence, as practice shows, on the one hand, come across an understanding of the need to undergo the established negative consequences, in the form of legal restrictions, for the committed criminal act. On the other hand, they are determined by the economic capabilities of the country, the political will, the mentality of the country's population, the interest (potential and real) in the effectiveness of achieving the goals of applying punishments, returning a law-abiding citizen to society. Each state decides this in its own way. Attempts to spread common standards and rules are initially doomed to failure. They can only be of a recommendation nature. Attempts to impose a unified order can be considered as interference in the internal affairs of a state and should receive an appropriate assessment and response.

Any steps taken in the area of combating crime, including through criminal legal means, give a certain result, but in the aggregate it is clearly not one that would allow us to state that the country has made every effort, and soon it will be possible to state that crime is over. This is not possible in principle. The social stratification of society, unemployment, and the very psychology of man allow us to assert the utopia of what has been said. Democracy and security are in a certain way the antipode, therefore, crime has

been, is and will be. The only thing that the state and society can do is to minimize crime both in quantitative terms and in the amount of harmful consequences that occur as a result of various criminal acts.

According to the results of the conducted research, it is possible to suggest the following possible ways in this area:

- create not only a system of human rights guarantees, but also effective mechanisms for their implementation;
- review the current system of legal regulation in the direction of law-abiding citizens, thereby eliminating the existing imbalance;
- create motivational conditions for achieving the goals of applying punishments, and so develop an effective system of criteria and indicators for their assessment;
- create conditions under which it will become unprofitable to commit illegal acts;
- develop a system of measures aimed at reducing the social stratification of society;
- to expand the role and importance of criminology (Fadeev V.N., 2020) in the study of the conditions and causes of crime;
- improve the intensity of impact measures.

The conclusions made in this paper can serve as a basis for further research, as well as for taking measures aimed at improving legal regulation, and improving the organization of activities.

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