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NEW SOCIAL CHALLENGES AND CRIME PREVENTION IN
THE RUSSIAN FEDERATION

A.V. Denisova (a)*, G. F. Tselniker (b)

*Corresponding author

(a) University of prosecutor's office of the Russian Federation, 2nd Zvenigorodskaya Str., 15, Moscow, Russia,
anden2012@yandex.ru

(b) Samara State University of Economics, Soviet Army Str, 141, Samara, Russia, grigorij-celniker@ya.ru

Abstract

The article deals with contemporary crime prevention in the Russian Federation. The authors substantiates that this goal of criminal punishment is a complex multi-stage process of legal impact on the public and individual consciousness. The article describes the implementation of the preventive goal of punishment at two levels: special and general, without highlighting the priority position of one or the other. This process includes the stage of legislative activity, the stages of applying criminal law norms and execution of criminal punishments and the post-penitentiary stage, which is associated with a set of negative legal restrictions experienced by a person who has criminal record. The authors conclude that the criminal policy of the Russian Federation should be unified and consistent, include a set of measures related not only to improving lawmaking in the criminal law sphere, but also to improving the quality law enforcement in criminal matters, with the improvement of the activities of institutions and bodies of the penal system, with the development of legal awareness of the population and the legal culture increase. The research proved that the general deterrent effect of criminal justice on society is significant. Criminal law norms and their sanctions have a serious educational and preventive effect on the population.

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1. Introduction

In the domestic legal system, serious attention is paid to the regulation of crime prevention. In part 2 of article 43 of the Criminal Code of the Russian Federation, after the purposes of restoring social justice and correcting the convicted person, the purpose of preventing the commission of new crimes is specified. Despite the fact that this goal is stated last in the list of goals, both in Russia and abroad it is traditionally considered as the main and sometimes the only goal of criminal punishment (Motz et al., 2019; Shargorodsky, 2003). In the current criminal legislation, the objects of the corresponding impact are not indicated in the declared preventive purpose of punishment. The criminal executive legislation specifies that it is aimed at correcting convicted persons and preventing the commission of new crimes by both convicted persons and other persons (part 1 of article 1 of the Criminal Executive Code of the Russian Federation). Therefore, we will also adhere to the traditional point of view for our legal system on the implementation of the preventive purpose of punishment at two levels: special and general, without prioritizing one or the other. Moreover, the goals of general and special crime prevention are inextricably linked. They are sub-targets of a single goal of criminal punishment, different levels of a single process of influencing citizens. In the first case, the form of organization of this process involves taking into account individual characteristics, in the second case-collective characteristics.

2. Problem Statement

Given the new social challenges, the criminal policy of the Russian Federation should be unified and consistent. It needs a set of measures related to improving law making in the criminal law sphere and the quality law enforcement in criminal matters. Effective crime prevention implies the improvement of the activities of institutions and bodies of the penal system, the development of legal awareness of the population and the legal culture increase. Nowadays the general deterrent effect of criminal justice on society needs to be studied. In modern conditions, it is required to confirm criminal law norms and their sanctions that have a serious educational and preventive effect on the population. The results of the study can be taken into account when planning and implementing preventive measures on the territory of Russia. These measures can be implemented both at the levels of general and special crime prevention.

3. Research Questions

The research questions for this paper were: what is the general deterrent effect of criminal justice on society in modern conditions? Do criminal law norms and their sanctions really have a serious educational and preventive effect on the population in the condition of new social challenges? What is the ratio of general and special crime prevention in the implementation of the Russian criminal policy? Can one of them be more significant in a particular historical period? What stages can be identified in the processes of crime prevention? What tools will contribute to more effective crime prevention?

4. Purpose of the Study

Authors of the paper developed a methodology for evaluating the effectiveness of contemporary crime prevention in the Russian Federation. It includes methods for determining the legal, social and economic effectiveness of crime prevention in Russia, the mechanism of evaluation procedure, the methodology for conducting a survey of different groups of respondents: judges, prosecutors, interrogators, investigators, researchers from different constituent entities of the Russian Federation. The developed method for evaluating the effectiveness of contemporary crime prevention makes it possible to significantly facilitate the process of correcting national criminal policy by identifying specific quantitative and qualitative performance indicators. The authors set a goal to develop the doctrine of crime prevention taking into account modern realities. Based on the works of well-known Russian and foreign criminologists (Antonyan, 2014; King, 2018; Rosenfeld, 2018), the article reveals the types, objects and subjects of preventive activity, the principles of its implementation, and suggests a general concept of crime prevention taking into account the new challenges of our time.

5. Research Methods

Evaluating the effectiveness of contemporary crime prevention is based on the method of applied sociological research. The investigation aims to study the phenomenon of preventive effects of criminal law among specialists in the field of criminal law (judges, prosecutors, investigators, interrogators, scientists) from different regions of the Russian Federation, which allows monitoring empirically the current social processes, and drawing conclusions about the prospects of national crime prevention. The researchers did not interfere with the situation, condition and variables and did not control or distort them; they simply studied, described and examined the results. The statistical sample of this study is 135 judges and their assistants, 106 prosecutors, 177 investigators, 75 interrogators and 46 teachers and researchers (Russia) who were selected by using a cluster method. The cluster method of sampling is a technique, which divides individuals based on their in-group characteristics into various groups. In this study, the participants were rated on the basis of their professional activity. The correspondents were asked about whether the norms of Russian criminal law have a purposeful controlling effect on the behavior of citizens by prohibiting a number of socially dangerous acts. The answers were: "yes, they do", "they do, but not in all cases", "no, they do not", "I find it difficult to answer". Carrying out the survey took 15 - 20 minutes (per person), and it took 30 days to analyze and interpret the results. 539 questionnaires were filled in and returned.

6. Findings

The survey showed that the majority of respondents perceive the criminal law prohibitions and punishments as a general deterrent factors. Thus, 27.5 % of respondents definitely recognized the fact that the state regulates the behavior of citizens through the introduction of criminal prohibitions to commit certain acts. An even larger number of respondents (67.9 %) supported the selectiveness of such regulation, emphasizing that it does not have an impact in all cases. And a very small part of the respondents (2.8 %) categorically denies the possibility of regulating the behavior of citizens through the adoption/change of

criminal law norms. In the course of the study, the authors found that the ratio of the goals of general and special crime prevention is variable and depends on specific historical circumstances. Periodically, one of these two goals may come to the fore. For example, when establishing criminal responsibility for certain types of crimes, the legislator seeks to give priority to the goal of general prevention or, conversely, the goal of special prevention. According to legislators, scientific and technological progress, universal access of funds duplicating and copying machines and Internet technologies has led to the facilitation of the mechanism of falsification of documents and simultaneous improvement of manufacturing methods, significantly improving the quality of forgery documents. Therefore, to strengthen the effectiveness of countering forgery and their use (i.e., for the general prevention of the commission of relevant crimes), article 327 of the Criminal Code of the Russian Federation was significantly amended and supplemented (Federal Law of 26.07.2019 No. 209-FZ). In other cases, when criminalizing acts, the purpose of a special prevention may come to the fore. For example, when introducing criminal responsibility for occupying the highest position in the criminal hierarchy (Federal Law of 01.04.2019 No. 46-FZ), it was assumed that this goal would be implemented in relation to a certain circle of persons who had already committed crimes and had chosen the path of "career growth" in the criminal world.

Such changes in the choice of priorities for general or special crime prevention are explained by the state's criminal policy in a certain period of time, its current trends and directions. In our opinion, in times of sharp aggravation of social and economic contradictions, the legislator and the judge are guided in their activities, first of all, by considerations of a general preventive nature; and vice versa, in a period of calm development of public relations, special prevention of crimes is the main goal that determines the construction of a system of measures of criminal law enforcement. To substantiate this postulate, we will give an example of the amendment made to article 236 of the Criminal Code of the Russian Federation in the midst of the global coronavirus crisis, on strengthening responsibility for violation of sanitary and epidemiological rules in connection with improving mechanisms for protecting citizens from the threat of the spread of infectious diseases (Federal Law of 01.04.2020 No. 100-FZ). The explanatory note to the draft of the relevant law indicates the widespread practice of non-compliance with sanitary and epidemiological rules by many residents of our country, the lack of motivation of people in the issue of ensuring the safety of both their own and others, and therefore concludes that it is necessary to increase civil responsibility. That is, the legislator, strengthening the sanctions of the existing criminal law norm, was guided by considerations of a general preventive nature, expected to have a legal impact on a wide range of individuals, on the entire Russian society. Criminal law norms, determining which socially dangerous acts are criminal, and establishing the types and amounts of punishments for their commission, thereby have a preventive effect on society as a whole. This effect is that citizens have a clear idea of certain actions as criminal, with the association in their minds of criminal punishment as an inevitable consequence of the crime (Thomas & Vogel, 2019; Thomas et al., 2020).

Thus, the preventive effect of criminal law norms is expressed in the fact that the threat of punishment deters people from committing crimes and reduces the level of crimes in society. This influence is carried out in two ways: firstly, by assigning criminal penalties to specific individuals, which prevents them from committing further crimes; secondly, by informing the public that crimes will be punished, this

has a general deterrent effect that does not allow others to commit crimes. This article examines both levels of impact of criminal punishment – individual and general.

General prevention is characterized by the tendency to deter members of society from committing crimes by criminalizing those who have already committed a crime. When a criminal is punished, the public is informed that such behavior will lead to unpleasant reactions from the criminal justice authorities. Most people do not want to be on the place of convicts and therefore refrain from committing crimes.

It is still unclear who exactly should act as the addressee of the general preventive impact of the criminal penalties imposed: all members of society or the so-called "unstable citizens" who are prone to committing crimes, that is, potential offenders? We believe that it is almost impossible to distinguish "unstable" citizens who are prone to committing crimes from "stable" members of society. Therefore, it is logical to assume that the general warning is addressed to all citizens, that criminal punishment (and the fact of its appointment, and even the fact of its existence in the law) has an impact on an indefinite circle of citizens.

The question on the purpose of general crime prevention is closely related to the question of the existence of so-called "preventive" criminal legal relations. These legal relations arise from the moment of entry into force of the prohibiting norms of criminal law, and are associated with the retention of citizens from committing crimes through the threat of criminal punishment resulting from the sanctions of the relevant legal norms. Subjects of preventive relations should recognize on the one hand the government, on the other – citizens of the Russian Federation, permanently residing in Russia, stateless persons, and all other physical persons on the territory of Russia during the enactment of the relevant criminal prohibitions (by the provisions of article 11, 12 of the Criminal Code). Individuals-subjects of this legal relationship are granted the rights to access relevant legal information and to freedom and inviolability from unjustified application of measures of criminal-legal influence with simultaneous assignment of a legal obligation to comply with criminal-legal prohibitions. The state has the rights to adopt, interpret, change or cancel the relevant criminal-legal norms, if there is an obligation to bring them to the attention of the population by publication, promulgation. In addition, the state has the right to demand from the obligated parties a certain lawful behavior in the form of compliance with criminal law norms (prohibitions), respectively, citizens are obliged to comply with criminal legislation. It is the duty of the state to recognize the need to refrain from applying criminal responsibility in the absence of grounds for its occurrence, which corresponds to the right of citizens to freedom of activity, if this does not violate criminal law norms (prohibitions).

According to their content, these legal relations have significant differences: they are more specific, related to compliance with the prohibitions provided for in the criminal law, accompanied by a specific threat – the threat of criminal punishment. All this confirms the branch affiliation of the legal obligation to comply with the criminal legislation of the Russian Federation and its existence within the framework of preventive criminal law relations.

An individual warning is implemented in cases where a criminal penalty prevents a previously convicted criminal from committing illegal acts in the future. That is, in the process of serving a sentence, the guilty persons realize the unpleasant consequences of their behavior. Thus, they change their behavior.

We emphasize the role of physical isolation from society in the execution of a number of criminal punishments (forced labor, restriction of freedom, imprisonment) in the context of special crime prevention.

First, it entails the actual impossibility of continuing criminal activity, the separation of organized criminal groups, criminal communities (criminal organizations). The isolation of criminal leaders often leads to the termination or disintegration of such groups. Also, isolation from society helps to neutralize the criminogenic factors and conditions that contributed to the commission of the crime (for example, the adverse impact of the microenvironment at the place of residence of the convicted person, etc.). In addition, being isolated from society, in the process of executing a criminal sentence, the convicted person experiences the full range of means of correction: he complies with regime requirements, participates in educational work and labor activities, receives general education, passes vocational training, and feels the social impact.

All this allows us to conclude that the goals of special crime prevention and correction of the convicted person are very similar in their content and means of achieving them. Their similarity lies in the fact that it is a necessary indicator of their implementation when a convicted person does not commit a new crime. However, this one indicator is usually not enough for the correction goal to be considered achieved. At the same time, this is sufficient for special crime prevention – it is recognized as effective and implemented if the convicted person at least does not commit a new crime.

In our opinion, the indicated purposes of criminal punishment are very close and to a certain extent, adjoin each other, the special prevention of crimes is characterized by a wide scope of content, because it can be achieved not only by correcting the offender, but by intimidation, and by creating conditions physically excluding the possibility of the convict to commit new crimes. For example, as a result of deprivation of the right to occupy certain positions or engage in certain activities, life imprisonment and even the death penalty).

7. Conclusion

The fact of introducing a new criminal law norm into the national legal system, the publication of a law on amending/supplementing the Criminal Code of the Russian Federation, declaring an act criminally punishable or increasing the size/terms of criminal punishment has a serious preventive effect. The implementation of the criminal law norm in the form of the execution of criminal punishment and the next stage of control over former convicts are designed to ensure that the relevant persons do not commit crimes in the future. Crime prevention is more effective than other methods of combating crime, so it is so important at every stage of legal activity to take measures aimed at countering the processes of determining crime, with the aim of influencing potential criminals, preventing the commission of new crimes by persons who already have a criminal past. Legislators in the process of law-making in the criminal-legal sphere should consistently and correctly carry out the course of criminal-legal policy announced by the state, adopting socially and criminologically justified criminal-legal norms, improving their sanctions. Law enforcement officers should carefully examine in each specific case what conditions are available to strengthen the preventive capabilities of criminal punishment, how under these conditions the preventive goal can be achieved both at the individual and general levels, at all stages of its implementation. Our survey did not include much correspondents because of practical limitations restricted the collection only to 539 people. However, sufficient data were obtained for estimation of the effectiveness of preventive effect of criminal law norms, confirmed by the verification of the evaluation of responses in different

groups. Future studies might be pursued in an effort to identify optimal means for effective crime prevention in the Russian Federation. The results of this study highlight the opportunities for improving lawmaking and law enforcement in the criminal law sphere on the territory of the Russian Federation.

References

- Antonyan, Y. M. (2014). *Crime prevention in Russia: Monograph*. Mozhaisk Printing Plant.
- Criminal code of the Russian Federation of 13.06.1996 N 63-FZ.
http://www.consultant.ru/document/cons_doc_LAW_10699/
- Criminal Executive code of the Russian Federation of 08.01.1997 N 1-FZ.
http://www.consultant.ru/document/cons_doc_LAW_12940/
- Federal Law of 01.04.2019 No. 46-FZ "On amendments to the Criminal Code of the Russian Federation and the Criminal Procedure Code of the Russian Federation in terms of countering organized crime".
http://www.consultant.ru/document/cons_doc_LAW_321411/
- Federal Law of 01.04.2020 No. 100-FZ "On amendments to the Criminal Code of the Russian Federation and articles 31 and 151 of the Criminal Procedure Code of the Russian Federation".
http://www.consultant.ru/document/cons_doc_LAW_349082/
- Federal Law of 26.07.2019 No. 209-FZ "On amendments to article 327 of the Criminal Code of the Russian Federation and the Criminal Procedure Code of the Russian Federation".
http://www.consultant.ru/document/cons_doc_LAW_329994/
- King, R. D. (2018). Cumulative impact: Why prison sentences have increased. *Criminology*, 57(1), 157-180.
- Motz, R. T., Barnes, J.C., Caspi, A., Arseneault, L., Cullen, F. T., Houts, R., Wertz, J., & Moffitt, T. E. (2019). Does contact with the justice system deter or promote future delinquency? Results from a longitudinal study of British adolescent twins. *Criminology*, 58(2), 307-335.
- Rosenfeld, R. (2018). Studying crime trends: Normal science and exogenous shocks. *Criminology*, 56(1), 5-26.
- Shargorodsky, M. D. (2003). *Selected works in criminal law*. Law Center.
- Thomas, K. J., & Vogel, M. (2019). Testing a rational choice model of "desistance:" Decomposing changing expectations and changing utilities. *Criminology*, 57(4), 687-714.
- Thomas, K. J., Loughran, T. A., & Hamilton, B. C. (2020). Perceived arrest risk, psychic rewards, and offense specialization: A partial test of rational choice theory. *Criminology*, 58(3), 485-509.