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**COUNTERING CRIMINAL THREATS: CONCEPTUAL
APPROACHES IN RUSSIAN AND FOREIGN PREVENTIVE
LEGISLATION**

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Abstract

Research of the problem of counteraction with criminal threats relates to necessity of forming effective scientifically grounded preventive legislation. In this regard, the study is focused on the analysis of scientific crime prevention views, as well as provisions of Russian and foreign preventive legislation, concerning conceptual crime prevention approaches being implemented in order to determine doctrinal crime prevention views to be enforced and aimed at making key provisions of countering criminal threats. This research applies the methods of induction and deduction, generalization and analysis, as well as comparative (in the field of comparative and foreign criminology) and formal-legal methods. The use of the above-mentioned methods showed legislation of different countries to be heterogeneous, which is expressed in some scientific visions addressing the problem of countering criminal threats being represented in the legal acts. Consequently, the authors propose to incorporate in preventive legislation a set of preventive provisions, based on a number of theoretical approaches, namely, the concepts of antisocial behaviour deterrence, and victimological security of the aggrieved party; the concept of positive incentives; and the concept of communitarian impact. The novelty of the study lies in the fact that it is the first comprehensive comparative legal analysis of Russian and foreign legislation on combating crime from conceptual criminological approaches' perspective, which determined the architectonics of this research. The results are valuable in practical terms as the proposals formed could be considered while developing preventive legislation in Russia and other countries in order to increase their preventive potential.

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Keywords: Crime, criminology concepts, legislation, prevention, preventive influence

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1. Introduction

The research of the ways to counter against criminal threats is driven by society's need for productive preventive legislation, which is a national security priority for modern states. Although crime declined slightly both in Russia and globally during the pandemic period (Stamatel, 2020; Stickle & Felson, 2020), the researchers point out that now crime is a global problem with immense economic consequences (Stenis, 2020). Accordingly, it is of strategic importance to develop guidelines for combating criminal threats, with the focus on their implementation in preventative legislation.

The analysis of positive provisions, present or absent in the preventive legislation of Russia and foreign countries, will make it possible to draft key points of preventive influence on the solution of the problems of countering crime. Applying in law the key provisions of the conceptual approach to the problem of combating criminal threats defined by the study in order to provide criminological security in the preventive legislation of Russia and foreign countries will make it possible to ensure the safety of society from crime.

2. Problem Statement

The study of conceptual approaches to crime prevention within the framework of crime prevention law is a necessary source for proposing solutions to crime prevention problems. The scientifically based conceptual approaches of crime prevention are implemented in some provisions of preventive legislation only.

Thus, the aspects requiring modernization in Russian preventive legislation include, for example, inadequate regulation of legal relations between the state and those potential perpetrators who (probably due to their moral principles) are the least likely to commit offences; having no law on domestic violence prevention, because of such violence being common in the country, which results in increased anxiety of potential violence victims.

The problem of discrepancy between science-based crime prevention recommendations and actual preventive regulations applied requires solving it by finding the main directions to counter criminal threats, which will allow optimizing legislative crime prevention regulation in Russia and in the world.

3. Research Questions

Gaps in prevention legislation in Russia and other countries, due to insufficient scientific understanding of crime prevention, shall be eliminated. The research paper provides answers to the following questions.

1. Analysis of the existing conceptual approaches to crime prevention in Russian and foreign crime prevention legislation.
2. Revealing theoretical understanding of crime prevention in the context of its correlation with preventive legislation.

4. Purpose of the Study

The study is aimed at identifying scientific insights into crime prevention that shall be enforced in order to work out key provisions for countering criminal threats for further preventive legislation development.

5. Research Methods

The research is based on dialectic cognitive method, general and special methods. The use of induction and deduction made it possible to examine the conceptual approaches to crime prevention. The methods of analysis and generalization, formal-legal and comparative methods allowed us to study crime prevention legislation from criminological perspective, to detect its heterogeneity and to form a set of preventive provisions.

6. Findings

To determine the key issues what concerns countering criminal threats, it is necessary to turn to positive examples of crime prevention legislation and scientific books and identify academic insights on crime prevention that shall be regulated by law.

Criminology recognizes that early delinquency prevention is a priority in crime prevention (Farrington & Coid, 2003; Rean, 2018). The effectiveness of early prevention is linked to its timeliness, which would allow to interfere in anti-social behaviour at the earliest opportunity.

The theoretical basis for early prevention is the concept of deviant behavior, developed by European and American researchers. The basic thesis here is that potential delinquent behaviour must be detected at the first delinquency indicators. However, it is true that personality traits that lead to deviancy are established in adolescence, when a person may commit the first antisocial act (Bastrykin et al., 2020).

The deterrent effect on those persons who might be engaged in antisocial and delinquent behaviour is classified as preventive influence on persons with potential antisocial behaviour; which, from our perspective, means identifying potential delinquents in order to transform their way of life so that they will not commit wrongs in the future.

Reasonably, the question arises if preventive legislation includes provisions for deterrence of deviant behavior.

The analysis of foreign preventive law provisions reveals the implementation of this concept in the national legislation of a number of countries. In the United Kingdom, according to Articles 1, and 2 of “Anti-social Behaviour, Crime and Policing Act 2014” (Anti-social Behaviour..., 2014), “an injunction” may be issued against the person whose behaviour is of concern to anyone, i.e. when there is some probability of deviant behaviour. Injunctions are aimed at discouraging antisocial and unlawful behaviour. In fact, the legal rules require deterrence from offences of those persons, whom “deviant” behaviour that does not contain the elements of an offence is typical for.

Russian law does not contain such rules. However, there is still a system of preventive registration of those people whose behaviour is already not potentially unlawful or anti-social (these are the persons

considered to be prone to committing a crime). According to Article 6 of the Federal Law “On the basis of the crime prevention system in the Russian Federation” (On the basis of crime prevention ..., 2016), there is a system of preventive registration of the persons inclined to unlawful or anti-social behaviour.

We believe that one of the main directions for further improvement of preventive legislation is to expand the possibilities of using the concept of antisocial behaviour deterrence.

In direct crime prevention, the victimological prevention concept is applied, for example. This issue is particularly relevant from the standpoint of preventing acts of aggression, violent criminal attacks and protecting victims of crime.

In order to ensure criminological security, it is necessary to reduce the risks for people to become victims of abuse. In Russia, as Golovanova (2020) rightly states, society and state no longer view domestic violence as an everyday phenomenon, but rather recognize it to be “a serious gender violence crime and violation of human rights” (p. 338). For centuries, women have been portrayed as weaker sex in many cultures, have been and still are victimized (wan Rosli & Hamin, 2018), suffer more than men from crime consequences (Hamin et al., 2017).

Providing legal state security guarantees for the persons anxious about domestic violence, as well as other acts (crimes) shall be classified as preventive influence on the persons anxious about becoming crime victims. For us, this term means a set of legal measures aimed at preventing anxiety about criminal behaviour (alleged criminal behaviour) against a potential victim, aimed at reducing victimization.

A study of prevention legislation reveals the implementation of victimization prevention concept. Thus, in Japan, there is “Act on the Prevention of Spousal Violence and the Protection of Victims” (2001), which obliges a domestic violent perpetrator to leave the joint residence (Article 10); in the United Kingdom, “The Code of Practice for Victims of Crime” (2005) obligates the police to notify the victim about the coming proceedings, such as interviewing the suspect (Article 5.18), which helps the victim overcome anxiety.

Many countries have adopted laws on preventing domestic violence, for example, France has a law “On Protecting Victims of Domestic Violence” (2021). According to Article 3(b) of the Council of Europe “Council of Europe Convention on preventing and combating violence against women and domestic violence” (Convention of the Council of Europe..., 2011), “domestic violence” refers to “all acts of physical, sexual, psychological or economic violence that occur within the family”. Many Council of Europe member states have acceded to this Convention, except Russia and Azerbaijan (Golovanova, 2020), which impoverishes their domestic legislation in terms of domestic violence prevention.

We believe that preventive legislation capacity would be enhanced by developing it regarding victimological security concept.

When preventing crime self-determination, the use of incentive rules aimed at involving organizations and the public in preventive activities seems effective. In this context, relevant is the concept of communitarianism proposed by the authors of the book “Crime, Criminality and Criminal Justice”, which justifies public participation in crime prevention as the way to participate in public administration (White et al., 2015).

Deterrence of potential offenders from antisocial and delinquent actions shall be referred to as preventive influence on the persons by measures of positive incentives; by this term, we mean the

activation of citizens' behavior when they reject to commit crimes, as well as the activity of organizations aimed at preventive work, including resocialization of convicts.

The analysis of the concepts of incentives and communitarianism represented in crime prevention allows to make conclusions about positive experience in Russia: its constituent entities have laws that encourage organizations to employ ex-prisoners, such as the Law of the Leningrad Oblast “On Certain Crime Prevention Issues in the Leningrad Oblast” (On Certain Crime..., 2018). According to Article 19 of this Law, “in order to facilitate the employment of persons in need of social adaptation and resocialization, Leningrad Oblast laws may establish measures to encourage employers in Leningrad Oblast to conclude employment contracts with the persons who need social adaptation and resocialization”.

In China, under Article 7 of “Community Correction Law”, organizations and individuals who have significantly contributed to reforming convicts receive awards (Community Correction Law..., 2019).

It is obvious that crime self-determination problem will be solved only with the active and intensive use of the concepts of positive incentives and communitarian influence used to develop preventive legislation.

7. Conclusion

The analysis of crime prevention legislation in different countries what concerns the scientifically based conceptual approaches of crime prevention being represented reveals their heterogeneity. The fact that some theoretical crime prevention ideas are correlated with preventive legislation shows that they are taken into account, to some extent, at least.

Thus, the Russian prevention legislation does not regulate legal relations arising when a deviant act is potentially possible (for example, in the UK prevention legislation there are such positive provisions), which makes suppressing potential asocial behavior (“anti-social behavior”) impossible when it only arises. Russia's prevention legislation has a weaker legal framework for protecting crime victims, namely, the victims of domestic violence, compared with foreign legislation where, in the case of Council of Europe member states, the provisions of the Convention have been implemented in domestic law.

Accordingly, the study allowed one to determine a set of key prevention provisions based on scientific conceptual crime prevention approaches, and such provisions shall be incorporated in the preventive legislation of the countries. They are as follows.

The preventive capacity shall be extended to persons exhibiting antisocial pre-criminal behaviour (the concept of antisocial behaviour deterrence).

Measures to minimize the risk of becoming a victim of crime (concept of victimological security) shall be introduced.

Law-abiding behaviour practices must be enhanced by using positive incentives (the concept of positive incentives).

The capacity of the public and legal entities to prevent offences, in general, and re-socialization of ex-prisoners, in particular, must be applied more actively (concept of communitarian impact).

Incorporating the key provisions hereinafter determined to solve the problem of combating criminal threats and to provide legal regulation of criminological security along with targeted implementation of these legal provisions in law enforcement activities can raise crime prevention to a qualitatively different level, and significantly improve its effectiveness.

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