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VICTIMOLOGICAL COUNTERACTION TO CRIMINALITY: CONCEPTUAL ASPECTS OF CRIMINAL POLICY

In this article, the authors draw attention to the victimological direction in the implementation of the criminal policy of the state.

The purpose of this article is to investigate the conceptual aspects of the victimological policy of the state as one of the directions of the criminal policy in the field of combating crime.

The very problem of criminal policy is a complex, systemic socio-political and legal problem of modern Kazakhstan, conditioned by general and special economic, political, spiritual, methodological, legal, criminological, criminological and other factors. Victimological policy is considered as one of the branch directions of criminal policy, a means of influencing crime in the mainstream of world trends

In today's Kazakhstan, a comprehensively developed theoretical and regulatory framework for the development of the system of victimological crime prevention, protection of the rights of victims and victims of crime has been formed. Meanwhile, in modern legal literature and in crime prevention practice, a point of view has been formed according to which the victimological direction is only part of the strategy and tactics of crime prevention and criminal legal protection of citizens. Numerous studies have not yet led to the development of a sufficiently accurate and complete picture of the victimological counteraction of crime as a sphere of criminal policy. This determines the novelty of this study. In the proposed article, the authors hold and disclose the position that in terms of content, subject matter of regulation, subjective composition, victimological policy in a certain sense is broader than the scientifically grounded strategy and tactics of crime prevention and regulation of criminal legal relations implemented in modern criminal policy.

In the proposed article, based on the study and generalization of existing theoretical views, the essence of the conceptual approach to determining the victimological policy of the state in the sphere of combating crime is presented in a generalized form. The authors reflect scientifically substantiated provisions and conclusions about the theoretical foundations of victimological crime prevention, which determines the scientific significance of this article. In addition, the main problems on the topic and the main directions of their solution are identified, which determines its practical significance.

The methodological basis of the research is the scientific provisions of criminal law and criminology on the nature of crime and criminality, their impact on the state and public security, victimization, victimization, victimology. In the course of research into the modern concept of determining the nature of victimological crime prevention, the conclusions are obtained through qualitative and quantitative analysis of social, legal, criminal-legal phenomena and processes.

The legal analysis carried out by the authors makes it possible to provide recommendations for the definition of new promising areas of Kazakhstan's criminal policy in the sphere of combating crime, it can contribute to the solution and overcoming of the international aspect in the field of victim crime prevention, which requires the establishment of cooperation with other states.

The results obtained in this article can be used in the educational process, for writing textbooks or teaching aids and publishing articles on this topic.

Key words: criminality, crime prevention, criminal policy, victimology policy, victimality, victimization, the victim of crime.

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Қылмыстылыққа виктимологиялық қарсы іс-қимыл: қылмыстық саясаттың концептуалдық аспектілері

Мақалада авторлар мемлекеттің қылмыстық саясатын жүзеге асырудағы виктимологиялық бағытқа назар аударған.

Мақаланың мақсаты – қылмыстылыққа қарсы тұру аясындағы қылмыстық саясаттың бір бағыты ретінде мемлекеттің виктимологиялық саясатының тұжырымдамалық аспектілерін зерттеу.

Қылмыстық саясат мәселесі жалпы және арнайы экономикалық, саяси, рухани, әдіснамалық, заңи, қылмыстық-құқықтық, криминологиялық және басқа да факторлармен шартталған заманауи Қазақстандағы кешенді, жүйелі әлеуметтік-саяси және құқықтық мәселе болып табылады. Виктимологиялық саясат дүниежүзілік тенденциялар ағымындағы қылмыстылыққа әсер етудің құралы қылмыстық саясаттың салалық бағыттарының бірі ретінде қарастырылады.

Ұсынылған мақалада орын алып отырған көзқарастарды зерделеу және жалпылау негізінде қылмыстылыққа қарсы тұру аясындағы мемлекеттің виктимологиялық саясатын анықтауға байланысты тұжырымдамалық көзқарас жалпыланған түрде берілген. Авторлар арқылы мақаланың ғылыми маңызын айқындайтын, қылмыстардың виктимологиялық алдын алудың теориялық негіздері туралы негізделген ережелер мен қорытындылар көрсетілген. Сонымен қатар, мақаланың тәжірибелік маңызын көрсететін, тақырып бойынша негізгі мәселелер және оларды шешудің негізгі бағыттары бейнеленген.

Жұмыстың әдіснамалық негізін қылмыс және қылмыстылықтың мәні, мемлекеттік және қоғамдық қауіпсіздікке олардың әсері, виктимділік, виктимдену, виктимология туралы қылмыстық құқық және криминологияның ғылыми ережелері құрайды. Қылмыстылықтан виктимологиялық сақтандырудың мәнін анықтаудың заманауи тұжырымдарын зерттеу барысында әлеуметтік-құқықтық, қылмыстық-құқықтық құбылыстар мен үдерістерді сандық және сапалық талдау жолымен қорытындылар алынған.

Авторлар арқылы жүргізілген құқықтық талдау қылмыстылыққа қарсы тұру аясындағы Қазақстанның қылмыстық саясатының жаңа басым бағыттарын анықтау үшін нұсқаулар, қылмыстылықтан виктимологиялық сақтандыру аясындағы халықаралық аспектілерді шешу және жеңуге үлес қосады.

Мақалада алынған нәтижелерді оқу үдерісінде, оқулықтар мен оқу құралдарын және аталған мәселе бойынша мақалалар жазу барысында қолдануға болады.

Түйін сөздер: қылмыстылық, қылмыстылықтан сақтандыру, қылмыстық саясат, виктимологиялық саясат, виктимдік, виктимдену, қылмыстылық құрбаны.

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Виктимологическое противодействие преступности: концептуальные аспекты

В настоящей статье авторы обращают внимание на виктимологическое направление в реализации уголовной политики государства.

Цель настоящей статьи – исследовать концептуальные аспекты виктимологической политики государства как одного из направлений уголовной политики в сфере противодействия преступности.

Сама проблема уголовной политики представляет собой комплексную, системную социально-политическую и правовую проблему современного Казахстана, обусловленную общими и специальными экономическими, политическими, духовными, методологическими, юридическими, уголовно-правовыми, криминологическими и иными факторами.

Виктимологическая политика рассматривается как одно из отраслевых направлений уголовной политики, средство воздействия на преступность в русле мировых тенденций.

В современном Казахстане сформировалась всесторонне неразвитая теоретическая и нормативно-правовая база для развития системы виктимологической профилактики

преступности, защиты прав потерпевших и жертв преступлений. Между тем в современной юридической литературе и в практике предупреждения преступности сформировалась точка зрения, согласно которой виктимологическое направление есть лишь часть деятельности по определению стратегии и тактики предупреждения преступности и уголовно-правовой защиты граждан. Многочисленные исследования не привели пока к выработке достаточно точного и полного представления о виктимологическом противодействии преступности как сферы уголовной политики. Это определяет новизну настоящего исследования. В предлагаемой статье авторы придерживаются и раскрывают позицию, что по содержанию, предмету регулирования, субъектному составу виктимологическая политика в определенном смысле шире научно обоснованной стратегии и тактики предупреждения преступности и регулирования уголовно-правовых отношений, реализующихся в современной уголовной политике, что обуславливает необходимость комплексного научного исследования концептуальных основ виктимологической политики.

В предлагаемой статье на основе изучения и обобщения существующих теоретических взглядов излагается в обобщенном виде сущность концептуального подхода к определению виктимологической политики государства в сфере противодействия преступности. Авторами отражены научно обоснованные положения и выводы о теоретических основах виктимологической профилактики преступлений, что определяет научную значимость настоящей статьи. Кроме того, обозначены основные проблемы по теме и основные направления их решения, что обуславливает его практическую значимость.

Методологическую основу исследования составляют научные положения уголовного права и криминологии о сущности преступления и преступности, их влиянии на состояние государственной и общественной безопасности, виктимности, виктимизации, виктимологии. В ходе исследования современных концепций определения сущности виктимологического предупреждения преступности выводы получены посредством качественного и количественного анализа социально-правовых, уголовно-правовых явлений и процессов.

Проведенный авторами правовой анализ позволяет представить рекомендации по определению новых перспективных направлений уголовной политики Казахстана в сфере противодействия преступности, может внести вклад в решение и преодоление международного аспекта в сфере виктимологического предупреждения преступности, что предполагает необходимость налаживания взаимодействия с другими государствами.

Результаты, полученные в настоящей статье, можно использовать в учебном процессе, для написания учебников или учебных пособий и публикации статей по данной проблематике.

Ключевые слова: преступность, предупреждение преступности, уголовная политика, виктимологическая политика, виктимность, виктимизация, жертва преступности.

It is quite obvious that the growth of crime and its individual types threatens the national security of the state. Therefore, the issues of crime prevention, the adoption of extraordinary measures to stabilize the criminal situation aimed at increasing the effectiveness of crime prevention, including victimization prevention, are always relevant.

Improving the system of social control over crime, ensuring a fair relationship with the victim of crimes in the “criminal-victim-society” is carried out within the framework of victimology. An analysis of the current state of the victimological theory, its initial assumptions and operational concepts as applied to the problems of victimological counteraction to crime will make it possible to solve a number of theoretical questions. The study is based on certain concepts of a discussion nature, which require a clear definition as applied to the subject of our study. In this connection, the conceptual-categorical apparatus (“victimological policy”, “victimological counteraction of criminality”, “victimization”, “victim of crime”) will be clar-

fied. The victim of the crime, the scientific basis for dealing with it, is becoming an indispensable element in the development of the modern concept of criminal policy, the specific direction of which is the victimological policy of the state, designed to minimize conflicts and help reduce crime through the protection of victims of crime, the organization of fair treatment, the political and legal enforcement of their legitimate rights and freedoms.

In the RK there is no effective victimological policy of the state and a system of victim protection of the population comparable to foreign counterparts. The basis of this situation is the imperfection of the legal and regulatory framework, the low level of legal, organizational, informational, resource support, the lack of a system for training and training specialists capable of victimizing crime. At the same time, the urgency, importance of the accelerated development and implementation of the victimological policy of the state, as a whole, victimological protection of the population and victimological

prevention in conditions of vicimenogenic threats, is more than obvious.

The experience of foreign countries shows that, within the framework of the implementation of criminal policy, much attention is paid to various ways of victimizing crime. Analysis of international legal foundations and foreign experience of victimological counteraction to crime, prevention of victimization of the population will allow to determine the main directions of its implementation in the domestic practice of victimological counteraction to crime.

The dialectical method of cognition and the systematic approach to the study of the indicated social and legal problems, combined with other methods of research, will allow us to consider the activities related to the implementation of the victimological policy of the state on the basis of a comprehensive analysis of the actual reality and the conditions in which it is formed. As a result of the study, systematic and comprehensive knowledge will be obtained about the necessary legal support, organization and implementation of the victimological impact on crime, which will significantly expand the preventive capabilities of preventive subjects and form a mechanism for comprehensive impact on the criminal situation, taking into account the relationship of the victim and the perpetrator. Particularly important in this case will be a balanced shift of the priorities of preventive action to a wider plane, i.e. the direction of preventive efforts not only on the offender, but also on the personality of the potential victim. The policy of dealing with victims of crime should be reoriented from the narrowly exclusive programs of victimization to integrated state programs for dealing with victims of crime.

A comprehensive analysis of the problems and legal regulation of the mechanism of state protection of victims of crime in the Republic of Kazakhstan indicates the need to develop a single legislation on the victimological impact on crime and the protection of victims of crime, which would determine the basis of the state victimology policy. This problem is connected with the fact that there is no single concept in the field of victimology policy in the Republic of Kazakhstan, which provides for the protection of victims of crime and ensuring an adequate level of their safety. Despite the fact that today there is a number of scientific developments in this direction, problems related to the provision of psychological, legal, material assistance to victims (victims) of crimes continue to be discussed at the state level. The development and adoption of the Concept on the Protection of Victims of Crime is not only a nec-

essary legal prerequisite for the formation of a unified system of victimological impact on crime, but also the definition and consolidation of the most important areas of victimological policy, which is the legal basis for ensuring the safety of crime victims in the Republic of Kazakhstan.

In practical terms, the scientific understanding of this issue allows us to determine not only the priorities of victimology policy, its strategy and tactics, but also to really come close to what is called the protection of the population and the protection of the legitimate rights and interests of citizens.

In his message «Strategy» Kazakhstan 2050 «: The new political course of the state» President of the country N.A. Nazarbayev proclaimed: «Our main goal is the social security and well-being of our citizens» (Nazarbayev, 2014).

Understanding that in modern conditions it is impossible to achieve such a level of security in which criminality would not have a significant impact on the lives of citizens, remaining the main threat to criminological security, poses the task of minimizing the social consequences of crime and keeping it at a socially acceptable level (Pleshakov, 2006: 2).

One of the ways to solve the state's task of minimizing the consequences of crime and keeping it at a socially acceptable level is preventive activity, the purpose of which is to reduce the risk of becoming a victim of crime. The victim of the crime, the scientific basis for dealing with it, is becoming an indispensable element in the development of the modern concept of criminal policy, whose specific direction is the victimological policy of the state, designed through the protection of victims of crime, the organization of fair treatment, the political and legal enforcement of their legitimate rights and freedoms, minimize conflicts and thereby help reduce crime.

Victimological policy is the state's activity in creating and improving legislation, law enforcement practice, legal ideology aimed at protecting the rights and legitimate interests of victims of crime, and reducing the level of victimality in society. Victimological policy is defined as the state's activity in creating and improving legislation, law enforcement practice, legal ideology aimed at protecting the rights and legitimate interests of victims, and reducing the level of victimization in society (Kleshchina, 2010: 195).

Вместе с тем, справедливо отмечается, что виктимологическая политика – это не только. At the same time, it is rightly noted that the victimological policy is not only the creation of an adequate legal framework, law enforcement practice, legal ideology and their resource support, but also

«activities aimed at limiting victimization of citizens, reducing conflict and deviance in society and integration of potential victims of crimes and acts of abuse of power in a normal life» (Tulyakov, 2000: 258). The priority areas of the victimological policy are working with public associations and increasing the victimological component in the preventive activity of law enforcement bodies, as well as using the capabilities of civil society institutions, religious associations, social funds, local governments to reduce the level of criminal threats to the population, for advocacy, to provide moral, organizational and, if possible, material assistance to the victim of crime (Vishnev cue, 2008: 330-332). The protection of victims of crime is not only limited to the totality of criminal and procedural measures being implemented, but also raises the need to apply, together with them, other legal as well as non-legal means of influencing the sources of victimization.

Statistics show that the level of victimization of Kazakh society is much higher than in developed European countries. Thus, in 2012, 1,578 million people became victims of crimes in the Republic of Kazakhstan, in 2013 – 2069275 million, for 8 months of 2014, 1459470 million people were recognized as victims of crimes. At the same time, the degree of preventive impact on victimization on the part of law enforcement bodies is insignificant and inferior to many foreign countries in organizing this activity, reaching out to the population and the results obtained, which is explained by the poor experience of victimization in our country.

Unfortunately, in the criminological science of Kazakhstan, the problems of victimology and victimization of crime do not cause a proper scientific interest and have not been widely studied. All available scientific research is limited to a few theses and scientific articles (Kainazarova, 2006: 28; Kairulla, 2005: 30; Malikova, 2014: 276-280). The analysis of the degree of scientific development of the problems of victimology and victimological prevention of crime in Kazakhstan criminological science allows us to conclude that today it is at the initial stage of comprehension.

The available victimological studies, carried out mainly by foreign scientists, can be grouped in three main directions:

- conceptual – research on the subject of victimology, terminology, conceptual apparatus, the place of victimology in the system of sciences, the role of the victim in criminal proceedings, the victim's typology (Mendelsohn, 1947; Mendelsohn, 1963; Lorraine Wolhuter, Neil Olley, David Denham, 2009);

- Investigation of victims of various types of crime, its relationship with the criminal (Thomas, 2002; Hentig, 1941; Hentig, 1948; Fattah);

- research on the problems of compensation for damage to the victim (Johannes Kingma, 1999; Richard Lusignan, 2007; Schafer, 1968).

Despite scientific developments, the conceptual theory of victimological crime prevention has not been created, which complicates the understanding of the place, role and significance of victimological prevention in the crime prevention system as a whole. As a consequence, in the preventive activity of law enforcement agencies, the theoretical provisions of victimology remain unclaimed, and victimological crime prevention is not fully included in the arsenal of law enforcement activities.

In recent years, the processes of transformation of the social structure of society have intensified, the parameters and vectors of stratification have changed, and, differently than before, the role of the individual in society and the state has been positioned. It is obvious that any profound changes in society necessitate the renewal of the methodological tools and conceptual approaches that have developed at the previous stage of the development of science.

The changes in the social structure of society require focusing on the social aspects of victimological research, ascertaining how the position of a person in society increases the probability of committing a crime against him, identifying victim-forming factors of different orders.

It is necessary to comprehensively study the factors of victimization not only of the individual, but also of social groups. The problem of criminogenic victimization of social groups has not found a deep and large-scale study, which can not but affect the creation of a scientifically based system of victimological crime prevention.

Certain prospects for limiting criminality are laid down in the harmonization of the relationships between social control agencies and victims of crimes. The problem of organizing the treatment of victims of crime, political and legal provision of the rights and freedoms of victims of crimes deserves a multilateral study aimed at creating model laws on the rights of victims of crime, developing issues of organizing international legal protection for victims of crime, creating mechanisms for restitution and compensation for victims of crimes, the question of the place and role of the victim in the mechanism of criminal conduct, its criminal-legal significance, ensuring procedural guarantees respect for human rights

Thus, the existing theoretical problems, gaps and shortcomings in the organizational and legal support of law enforcement agencies in crime prevention require an appropriate scientific solution and practical replenishment, necessitate a comprehensive scientific study of the conceptual foundations of victimology policy and the problem of protecting victims of crime.

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