

For Criminal Law Policy

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Introduction

Criminal law policy is influenced by the legislature, executive, and judiciary, of course, in different ways and to different extents.

An important factor for criminal law policy is: criminalization and decriminalization, Qualification of an action as a crime (legislative, judicial, scientific), the legal formulation of the punishment and the question of the proportion of the punishment, the issue of application of international conventions and agreements in national legislation and implementation in practice, the influence of criminal law (legislation and science) of foreign countries, the impact of science, the impact of the legal development of the citizen, the influence of economic relations and conditions, Interdependence of morality and criminal law policy.

In this paper, the influence of all the above factors on the criminal law policy of the state will be investigated and suggested to the reader. We can safely say that the impact and dependence of each of the factors named here on criminal law policy is worthy of a separate study, But at this stage, we offer the reader a necessary and sufficient volume of research on important factors for criminal law policy.

In the following, a more extensive and detailed study of these issues is desirable and appropriate. Also, in order to fully present the criminal law policy, we consider it appropriate to study such factors as: The influence of philosophy on criminal law policy, Influence of other branches of law, Criminal law has invaded other branches of science or law with its politics if they have invaded criminal law and influenced criminal law policy, Criminal law policy and person, Criminal law policy and the family, Criminal law Policy and Society, Criminal law policy and the state, Criminal law policy and art, Criminal law Policy and Science.

The author of this article has thought and judgment on these issues and will present them to you in a complete form below. Other factors can be considered important for the criminal law policy.

All factors that will affect the development and/or implementation of criminal law policy to one extent or another are important. These factors can increase. Within the framework

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of academic freedom, colleagues may give priority to other factors and present their opinion. It is quite possible.

At this stage, I have considered the circumstances (factors) listed above as worthy of research in relation to the criminal law policy, and I offer my opinion on this very important issue.

I will not discuss the nature and essence of the state and law here, this is an interesting and somewhat known issue not only for lawyers, but also for all citizens. At least because all citizens live or belong to one or another state.

The state cannot exist without law. Also, law cannot exist without the state. They condition each other and have a great influence on each other. *Whatever state it is, it has such law. Whatever law has a state, it is a such state.* So, a sign necessary for the state - its own (developed or less developed) law is well suited to characterize the level of development of the state itself.

The development of the state requires the development of law. Of course, this includes all branches of law, including criminal law, which is the most repressive of all branches of law.¹⁾

Development requires changes. Change means changing the existing. Therefore, the change of criminal law along with the development of the state is inevitable. However, this change should contribute to protecting the interests of the person, family, society and the state as a whole.

If this happens during any changes in the criminal law, be it the adoption of a new criminal law code or a separate amendment to the existing code, a progressive and timely criminal law policy should be implemented, which will actually help protect the legal interest of the citizen and the state.

Therefore, the existing criminal law policy in the state should serve the function of criminal law.

1. Criminalization and decriminalization

The change of the criminal law policy should always be aimed at improving the criminal law and should not be an end in itself or a means to an end that is not focused on the protection of human rights.

Changes in the criminal law code or adoption of a new criminal law code is inevitable in accordance with the intensity of development. However, the change should contribute to the improvement of the existing Criminal Code. If the change has a different purpose and achieves it, then there is deterioration. This is because change involves either improvement

1) I will not go into the definition of the concept, function and purpose of criminal law here. This is well known to lawyers. For example, the collective of authors, general part of criminal law, textbook, third edition, Tb., 2018, p.21;

or deterioration. Accordingly, the criminal law policy either does not change or changes in one of two directions: Perfection - to improvement or deterioration.

Often we may not be able to clearly see the real purpose of the changes, this is where criminal law policy has gone, but the means to that end are often a good way to illustrate the real end. It is the steps taken and their direction that show the orientation of the criminal law policy change.

Criminalization and decriminalization are the accompanying processes for the development of criminal law or, in the worst case, retardation of development. Declaring the act as a crime (criminalization) or, on the contrary, decriminalization should facilitate the implementation of a criminal law policy appropriate to the requirements of the time. However, often and unfortunately this is not the case, and changes in the Criminal Code (in the form of criminalization or decriminalization) are made for another purpose.

Criminalization and decriminalization, depending on their extent, influence criminal law policy to some extent and change it for better or for worse (improves or worsens).

In order for change through criminalization or decriminalization to improve existing criminal law policies and not vice versa, these changes need to be rational and thoughtful. This requires all efforts and a complex approach to the issue (changes), which is associated with certain difficulties.

It is relatively easy to make emotional or populist changes (criminalization and decriminalization), which also influence and change the state's criminal law policy, but it is designed for short-term effects and does not/cannot serve to implement a long-term, fair criminal law policy focused on the protection of human rights. It is relatively easy to make emotional or populist changes (criminalization and decriminalization), which also influence and change the state's criminal law policy, but it is designed for short-term effects and does not/cannot serve to implement a long-term, fair criminal law policy focused on the protection of human rights.

Criminalization or decriminalization, regardless of whether it is accepted emotionally, populistically or rationally, still has an impact on the creation or modification of criminal law policy. In order for criminalization and decriminalization to serve the implementation of a fair criminal law policy, it is necessary to conduct them in a thoughtful, reasonable, purposeful way, taking into account the interests of people and the state - in the direction of protection.²⁾

Criminal law and its development are impossible without criminalization and decriminalization. The role of these institutions in criminal law is undoubtedly great. Just as criminal law policy influences criminalization and decriminalization in criminal law, so

2) I will not go into characterizing the criminal law significance of criminalization and decriminalization here. This is well known to the reader. In this paper, we explore issues well known to criminal law and other scholars in relation to criminal law policy. Each issue, depending on its relevance, may deserve a separate study, but due to the specificity of the paper, we study them only in relation to criminal law policy and not in other directions.

criminalization and decriminalization influence criminal law policy. So, the mutual impact and interdependence of criminal law policy and criminalization and decriminalization is an important factor to consider in criminal law.

2. Qualification of an action as a crime (legislative, judicial, scientific)

Closely related to criminalization and decriminalization is the question of qualifying an action as a crime.³⁾ Criminal policy is greatly influenced by the characterization of an act as a crime. As rightly noted by Prof. G. Nachkebia “We must distinguish three types of qualification of an action as a crime: legislative, investigative - judicial and doctrinal”.⁴⁾

If we carefully analyze the types of qualification of an action as a crime and their meaning proposed by Professor G. Nachkebia, we can come to the conclusion that the legal qualification of an action as a crime and criminalization (we can also mean partial decriminalization) are one and the same.⁵⁾

If we rely on the significance of the qualification of an action as a crime proposed by Professor G. Nachkebia, then “the criminalization of certain actions of people by the legislative body (that is, the Parliament of Georgia) is nothing but the legislative qualification of this action as a crime”.⁶⁾

Above, we have already discussed criminalization and decriminalization and criminal law policy, their interdependence. Since the legal qualification of an act as a crime is the same as criminalization, its influence on criminal law policy and vice versa is obvious.

Criminal law policy is influenced by all three branches of government. The intensity of the influence depends on the real strength of this or that branch of the government.

Criminalization, the legal qualification of an act as a crime is the prerogative of the legislative body, so the importance of this body on criminal law policy does not require much proof. And this happens through the legal qualification of the action as a crime.

For the criminal law policy, along with the adoption of the criminal law code or changes in it by the legislative body, their practical implementation is important. From this point of view, the investigative-judicial qualification of the action is decisive.

Along with the adoption of the law, its practical application is important. This is carried

3) Due to the volume of the work and other circumstances, we will refrain from quoting the views of famous scientists on this or that issue. The interested reader can see the views of others in other works as well. I have tried in this work and I think in the future as well, when performing scientific and even more so, educational works, to quote in a necessary and sufficient volume and, as far as possible, to offer the reader his own opinion, which he cannot read elsewhere. Taking into account the specifics of scientific works, if necessary, I will also quote, but not in the volume and quantity, as my colleagues have been doing recently. Regarding this issue, see E. Phutkaradze, for scientific honesty, collection of works of GTSU, 2020, pp. 42-46;

4) G. Nachkebia, The general theory of qualifying an action as a crime, chapter, 2010, p.14.

5) On the types of qualification of an action as a crime and their meaning, see G. Nachkebia, p. 14-21.

6) *ibid*, p. 17

out by investigative judicial bodies in criminal law. It is brought to life in relation to the norm. Criminal law policy is implemented in real life by investigative or judicial bodies. Of course, justice is administered by the courts, but criminal law policy can also be influenced by the characterization of an act as a crime by investigative bodies. Naturally, the courts should correct the mistakes made by the investigative authorities regarding the qualification of the action as a crime, but their influence is sometimes so great that they have a great influence on the criminal law policy. It is also important to determine the legal authority of the participants in the procedural qualification of the action as a crime. However, the practical realization of the right granted by the legislation is related to many factors. These factors influence the investigative-judicial qualification of the action as a crime and, accordingly, the criminal law policy.

That is why the professionalism, integrity and independence of the court (judge) is very important and decisive, among them, in the judicial qualification of the action as a crime and accordingly in the practical implementation of the criminal law policy.

Legally (and also in many other directions) in developed countries, scientific definition of an act as a crime is always important and noteworthy. A developed state uses scientific resources wisely in the process of building the state. This is primarily manifested in the use of this resource in the legislative, executive and judicial authorities. If, due to various circumstances, this did not happen and scientists are not represented in government bodies, then their explanations and opinions are heard and used. In such a case, the scientific definition of the act as a crime Along with theoretical qualifications, scientific qualifications are given practical and useful value. Depending on the extent to which the scientific definition will be used in the legislative or judicial authorities, the scientific qualification of this act as a crime will be relevant to the extent of its impact on the criminal law policy.

Legal and judicial qualification of an act as a crime will definitely have mutual influence on the criminal law policy.

The role of scientific qualification of an act as a crime on criminal law policy depends on the role and place of science in the state itself.

3. Legal formation of the punishment and the question of the proportion of the punishment

The question of the legal formulation of the punishment and its ratio is directly related to all three types of qualification of the act as a crime. This is especially important for criminal law policy. In turn, the criminal law policy, both legislative and judicial, affects the level of punishment in the determination and practical implementation of the criminal law course.

Often, depending on how the purpose of the punishment is defined in the criminal law code, the type of punishment, the question of whether to impose a punishment or release

from it, the existing criminal policy in the state can be determined.⁷⁾

It can be said that the lustration of the criminal law policy occurs more when the punishment is applied than when the action is qualified as a crime. The course of the criminal law policy in this or that state can be seen in the severity or liberalization of the punishment. This has its scientific and practical basis.

Of course, the qualification of an act as a crime is also important for determining criminal law policy, but the purpose, type and manner of punishment are still special for criminal law policy.

Despite the difference in legal development, no state can refuse to punish classic crimes (for example, murder, rape, robbery, etc.), but in accordance with its own criminal law policy, it can legislate and use a special type and size of punishment. The country's criminal law policy is already visible here.

Criminal law policy is also very evident in the way sentences are imposed and their practical application by the courts. I am not saying anything about the legalization and application of the rule of absorption or accumulation of punishment.

Many scientific theories, legal texts related to the punishment of different countries from the point of view of comparative criminal law, and material of the practice of their use by the courts can be cited, which will prove that the question of punishment is essential for the criminal law policy.

As scientific studies and judicial practice of different countries show, the criminal law policy focused on the severity of punishment cannot ensure the fulfillment of criminal law tasks in the long term.

Harsh criminal law policy is more a result of emotional and populist politics, which is aimed at short-term effective results. General preventive tasks, intimidation of the society - subjugation, and little regard for the protection of the right of an individual as a citizen are in the foreground here.

The criminal law policy of the country is clearly seen in the goal of the punishment, the means of its achievement (type of punishment), the manner of appointment and execution.

4. The issue of application of international conventions and agreements in national legislation and implementation in practice

Today, more than ever, the issue of globalization is very important. From the legal point of view, the problem of the relationship between international and domestic law becomes relevant. The level of development of humanity requires harmonization and

7) Here, I will not discuss the existing Georgian or foreign legal literature on these issues. I would like to mention only that the author has also conducted some researches and published works in this direction. It is also worth noting the fact that in the recent Georgian legal literature, there is an abundance of scientific works related to punishment, which is very gratifying and welcome.

rapprochement of states on issues necessary for peaceful coexistence.

Of course, the sovereignty of the state is recognized and prioritized, but in some cases it becomes necessary to supplement the domestic law, including the criminal law, in accordance with the requirements of international agreements and conventions.

It does not require much proof that no matter how strong and developed any state is legally, it cannot be successful individually without legal cooperation with other states, even in the fight against international crimes. This requires legal cooperation with other state(s) in criminal law. For this, it is necessary to adopt international agreements and conventions.⁸⁾

In turn, each state must bring its legislation into line with the requirements of the conventions. Of course, the legislative techniques of the states are different. This, in turn, definitely affects the country's criminal law policy. Regardless of the extent to which national legislation complies with international standards, the level of legal development of the country is determined. Compliance of national criminal law with international standards is interrelated with the criminal law policy of the state.

5. Influence of criminal law (legislation and science) of foreign countries

Today, more than ever, the opportunity to learn and use the criminal law legislation and scientific achievements of foreign countries is strong.⁹⁾

It is welcome to get acquainted with the criminal law code of foreign countries and scientific achievements. Relatively from a criminal point of view this is necessary for the development of national criminal law. Probably, the fact that only knowledge of national legislation and scientific achievements is not enough even for the development of national criminal law does not require much proof. Comparative criminal law and international criminal law studies are a necessary prerequisite for the development and application of national criminal law.

However, the issue of the influence of the legislation of foreign countries or science on the national criminal law policy arises here. We will not enter here into a detailed discussion of assimilation and re-assimilation or other important principles.¹⁰⁾ Often, familiarization with the legislation (or scientific achievement) of foreign countries is not limited to

8) I will not go into the naming of criminally important international conventions here.

9) For more details on this issue, see J. Pradel, *Comparative Criminal Law*, Tb., 1999. Many interesting scientific works in comparative criminal law have been created in Georgian legal literature, which gives Georgian readers the opportunity to learn about and use the achievements of criminal law legislation and science of foreign countries. Listing these works here would take us too far. However, it should be noted that, with some exceptions, the main part of the works is devoted to German criminal law. This is understandable, because the influence of German on the criminal law of post-Soviet, independent Georgia is obvious.

10) see M. Turava, *European Criminal Law*, Tb., 2010, p. 37-44;

comparative criminal studies, and due to various circumstances, foreign legislation affects the national criminal policy of the country. Many factors determine this. The political course and orientation of the country is more important. Scientists often play an important role as well, who “convince” the government representatives of the superiority of the criminal law legislation of any country and its “acceptability” for the national legislation. Choosing one (or hybrid) of different models of criminal law of a foreign country and transferring it (with or without certain changes) affects the country’s criminal law policy. This mainly characterizes developing countries, whose legal development does not correspond to modern standards, and the “development” of national legislation is carried out by transferring foreign legislation. In such cases, science “serves” to justify the expediency of using other people’s legislation and scientific achievements in national legislation. So, depending on how developed the national science is, it either creates the national legislation or justifies the use of the legislation and scientific achievements of the developed country in the national criminal law.

6. The impact of science

Even the above-mentioned circumstance proves that science can and should have a positive impact on criminal law policy. I am referring here to the science of criminal law, not to science in general, which can also influence criminal law policy. But unlike other sciences, the impact of criminal law science on criminal law policy is direct. How strong or weak is the influence of criminal law science on criminal law policy, depends, first of all, on the level of development of criminal law science itself, and secondly, on its place and importance in the political life of the country. The attitude of political forces and even the state government determines the independence and importance of science.

There are many factors to consider in order to understand the place of criminal law science in the life of a country and in the determination of criminal law policy. In a legal, democratic and developed state, all branches of government take into account the achievements of criminal law science and accordingly create, change or develop criminal law policy. In a totalitarian state, the government does not consider independent scientific opinion, which does not exist or is reduced or created and controlled by the state. Science, at such a time, cannot form independent and valuable opinions and views and is completely under the influence of the government. Therefore, its function is limited only to the “justification” of the criminal law policy carried out by the branches of the government.

From this point of view, it is a completely different picture (at least it should be) in a democratic and legal state, where the science of criminal law develops without the intervention and politicization of state authorities. Freely, without taking into account and pursuing anyone’s interests, developed science will be able to create valuable and relevant opinions and views, which the state cannot ignore and which it will have to take into

account when creating criminal law policy. Thus, the state's attitude towards science is important for the development of science itself. Its involvement and influence on criminal law policy requires both the "good will" of the state and the readiness of science itself with its academic achievements. The influence of science on criminal law is directly related to the level of its academic development, which is supplemented by the political will of the branches of government to create and use national scientific achievements.

Criminal law science could not and will not influence national criminal law policy, of course, if such exists in a state where there is no political will or science is not ready to academically influence the branches of government.

A reasonable government always takes into account the academic achievements of science and creates an appropriate criminal law policy.

Ignoring scientific achievements to implement the desired criminal law policy characterizes non-democratic and totalitarian states that try to justify the desired authoritarian criminal law policy through science.

Thus, criminal law science can and should play a positive role in criminal law policy. However, as we have seen, it depends on many factors. The legal and democratic development of the country can be judged on the scale of consideration of science and scientific achievements in criminal law. The indicator of legal development is the academicity and suitability of the achievements of the national criminal science for inclusion in the Criminal Code and for use in judicial practice. From this point of view, we can consider the political will to use scientific achievements in criminal law policy by the branches of government as an indicator of democratic development.

7. The influence of the legal development of the citizen

Considering the scientific achievements is no less important than considering the public opinion when creating or implementing the criminal law policy. Public opinion is mainly created by the citizens of the country. Therefore, the legal development of the country's citizens is an important factor for the criminal law policy.

Although basic human rights and freedoms are recognized or declared in the country's constitution and other relevant laws, as well as in international conventions and declarations, their practical realization is highly dependent on the legal development of citizens living in the state.

The legal development of citizens is positively influenced by human rights protection-oriented and not pseudo non-governmental organizations operating in the state. Their existence next to state agencies helps (at least should organize) the legal development of citizens.

The legal development of citizens, raising their legal culture is a prerequisite for the protection of the citizen's legal rights. This in turn affects the criminal law policy of the state. States with citizens of different legal development cannot and will not have the same

criminal law policy. The legal development of citizens affects the branches of government in the implementation of criminal law policy. You cannot implement the same criminal law policy towards a citizen who is aware of his rights and even more so has the ability to protect them, and a citizen who is at a low level of legal development. The legal development of citizens forces the state to implement a criminal law policy appropriate to their development.

The state can dictate its desired criminal law policy to less educated and legally undeveloped citizens, which it cannot do to legally developed citizens.

In such a case, he must implement a criminal law policy corresponding to the legal development of citizens, which implies a comprehensive and liberal criminal law policy focused on the protection of human rights, or he must “lower” the legal development of citizens, in order to make them easy to manage and to offer his preferred criminal law policy, which is mainly authoritarian and focused on intimidation of the population into obedience.

Thus, the legal development of the citizens of the state is a very important factor for defining and evaluating the legal culture of the country in general. Legal development of citizens can have a positive impact on criminal law policy in the state. The legal underdevelopment of the citizens, and the low legal culture is a fertile ground for carrying out an authoritarian and repressive criminal law policy against them. This indicates that citizens with their legal development can and should make a significant (perhaps sometimes decisive) contribution to the creation and implementation of criminal law policy by the state.

8. Influence of economic relationship and situation

An obvious indicator of the development of the state and its citizens is the economic relationship and condition of both the state itself and each of its citizens.

Economic relations in the state (market, free, planned, etc.) determine the current economic situation. And here arises the question of the relationship between the base and the superstructure, which is often considered unreliable in science.¹¹⁾ From the point of view of the majority of economists, economic relations are the basis, and law regulates only what actually exists - real economic relations. Contrary to this, part of the lawyers believe that the law can create new economic relations at the legislative level, that is, create a new basis for economic relations, for example, the transition from a planned economic relation to a market economy. This means that the law is the legalizing, determining basis of the economic relationship, on which the new economic relationship rests and falls within its framework. Otherwise, there will be illegal economic activity.

11) On this topic, I will not draw the reader's attention to the meaning of the base and the superstructure and which one is primary. A number of interesting economic and legal papers are dedicated to this.

Economic activity, like all other activities, is either legal, legitimate or illegal. Thus, the law can frame and guide the economic activity and, accordingly, the economic relationship in the direction desired by the law. This relationship determines the economic situation. Thus, the economic relationship in the country and hence the economic situation again depends on the legislative and legal situation in the country. It may seem excessive to colleagues with different opinions to increase the importance of law and to consider the importance of real economic relations as a superstructure, but the legal provision, regulation, or protection of human relations (including economic relations) is characteristic (should be) of the legal state. Here we move to the essence and substance of law, to its different understanding due to different definitions. However, at this stage we are interested in one thing - does law protect only existing relationships or can it create new relationships?

If we share the opinion that the function of law is limited only to the regulation of existing relationships, then law will only have the function of a notary and it must “justify” the relationships that exist or have been formed. At such a time, law does not/cannot participate in the creation of the state and other relations, including economic ones, and waits for the creation of new relations in order to legalize them later. At such times, the role of law is reduced. *Law can have a guiding function in the creation of both the state and all kinds of relationships, including economic relations.* The law must predetermine the direction of relations in the state and ensure their regulation or protection by state institutions.

A developed legal state creates the right legal framework for all kinds of relationships - a direction, a legal model, and does not wait for “wild” relationships without a legal framework and then to “justify” them. *First the goal should be set and then the means should be selected.* The state must first legally determine what kind of economic relationship it wants to establish and develop, and then create appropriate conditions for this, even by preparing a legislative base. Many examples are known in world history, when the state changed the existing economic policy by adopting legislation.¹²⁾

Many materials can be adduced which would give us a basis for saying that law can create and direct economic relations. At such times, law is the basis on which the economic relationship rests and develops accordingly. In the “justification - registration” of existing economic relations, law loses its basic function and becomes the service of influential economic relations. This is not a feature characteristic of a legal state. Law should not serve anyone’s economic interests. Economic relations should be legally regulated and protected and should serve the interests of the legal state, which provides for the protection of the interest of both the state and the individual citizen.

In a legal state, economic relations and the corresponding economic situation are legally managed and protected. *Law dictates the development of the economy in the direction of*

12) Nep alone - what is the new economic policy worth from this point of view.

protecting the interests of the state and citizens.

Where the law is weak and the ability of the actual owners of the economic interest is strong, the law changes in accordance with the change in the owners of the economic interest.¹³⁾ Economic interest exists at the individual, public and state level.¹⁴⁾

In a legal state, all kinds of economic interests are regulated and protected by the implementation of a criminal law policy focused on the protection of state and human rights.

In a non-legal state, where people with strong economic interests and capabilities “legalize” their economic interests, they create appropriate criminal law policies to protect them. Thus, the influence of economic relations and conditions on the criminal law policy is undeniable. As we have seen, in a legal state, law is the guiding principle for economic relations, and criminal law policy is implemented focused on its protection. The same cannot be said when economic interests use “law” to “justify” it and create appropriate criminal law policies to protect these interests. Both legally recognized and protected, and actually existing and even “criminal” economic relations and conditions influence the existing criminal law policy in the state.

9. Interdependence of morality and criminal law policy

The issue of interdependence between morals and criminal law policy is quite interesting. A morally justifiable criminal law policy enjoys public support. It is necessary to take into account moral norms in the creation and even more so in the implementation of the criminal law policy. Otherwise, the current criminal law policy will not be acceptable to the public and will not be popular. As they rightly point out, the law is created for ordinary citizens, not for heroes, so we cannot ask any citizen to act heroically. We also cannot oblige them, we cannot legalize them to act against the norms of morality. In this regard, the issue of covering up a crime committed by a close relative is interesting. Also noteworthy is the theme of the tragedy of Khevisberi Gotcha brought to the fore by Professor Otar Gamkrelidze.¹⁵⁾

A person should not be faced with a conflict between the criminal law code and the moral norm. Often the norms of morality better protect those human relationships that were declared as criminal punishment. Therefore, criminal punishment of such relationships is no longer appropriate. Such is, for example, marriage between close relatives.

13) On this issue, see E. Putkaradze, for the issue of economic crime, collection of scientific works of GTSU, No. 10, 2020, pp. 34-41;

14) see E. Putkaradze, approx. copy., *ibid.*

15) see O. Gamkrelidze, *The Tragedy of Khevisberi Gotcha, Struggle for a Legal State*, Tb., 1998;

Conclusion/Resume

Legal development is important for ensuring the coexistence and legal relationship between the state and the citizen.

Every field of law has its function. But still the function of criminal law is special. The criminal policy ran by the state clearly shows what type it is - democratic or totalitarian.

Unlike other fields of law, it is superfluous to discuss the most repressive of criminal law. Nevertheless, by pursuing a liberal criminal policy in a democracy, criminal law can serve to protect human rights. The opposite happens in a totalitarian state, where authoritarian, repressive criminal policies can be a means of violation of human rights.

Therefore, depending on the nature of criminal policy, it serves either the protection of human rights and is its constitutional-legal guarantor or, conversely, an effective means of violation and influencing it.

Hence, criminal policy is of great practical importance in terms of human rights protection as well.

Criminal policy cannot be isolated from the general situation in the state. All the important factors in the state have impact on criminal policy.

Circumstances such as: criminalization and decriminalization; Qualification of an action as a crime (legislative, judicial, scientific); Legislative formulation of a sentence and the issue of its imposition; The issue of application of international conventions in national criminal law; The impact of criminal law of foreign states on national criminal law; The impact of science; The legal development of citizens; The economic situation in the state; The moral culture of citizens, etc. have important impact on criminal policy.

The role of each of them as well as other circumstances in criminal policy is undeniable.

It can be said that the state has exactly appropriate criminal policy as the impacting factors work on them. Among other criteria, criminal policy of the state is indeed a feature of its legal development.

Literature:

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