

Criminal Law Impact as A Purposeful Special Activity

Vladimir Kuzmich Duyunov¹; Ruslan Valerievich Zakomoldin²; Inna Andreevna Podroykina³

¹Togliatti State University, Togliatti, Russia.

²Togliatti State University, Togliatti, Russia.

³Rostov Branch of the Russian Customs Academy, Rostov-on-Don, Russia.

Abstract

The paper continues to study the phenomenon of criminal law impact as a specific type of human activity carried out by the competent state authorities (special state activities) as a response to criminal behavior and crime. The general concept of human activity as a form of active human interaction with the surrounding world has been considered, its main features and types have been analyzed. The authors analyze the distinctive features of state activities related to the provision of criminal law influence, justify its constructive and purposeful nature, systematic organization and functionality, and the connection of the most important social values, moral attitudes, and principles that have historically developed in society. Therewith, it has been announced the need for further, more in-depth, and thorough research of the main elements of the mechanism of criminal law impact: its goals, principles, grounds and means, content and forms, subjects and objects, the process of consistent step-by-step implementation. These issues in the doctrine of criminal law remain poorly developed, while their solution can significantly help in the search and implementation of optimal means to improve the effectiveness of combating crime.

Key-words: Human Activity, State Activity, Special Activity, Purposefulness, Expediency, and Goal-Setting of Activity, Criminal Law Impact, State Response to Crime and Criminality, Counteraction to Crime.

1. Introduction

Criminal law impact, defined by us as the special activity of state bodies, expressed in various forms provided for by law, related to the provision of the necessary punitive, educational and preventive impact on the behavior of persons who have committed a crime, and other so-called unstable persons, as well as the impact on social relations that cause the existence of crime, as a response to criminal

behavior and crime in general, is a complex and dynamic process of normative support and practical implementation of this reaction [9, p. 288-292; 10; 11, p. 86-96; 12, p. 28-29; 13, p. 187-225; 28], and, like all human activity, can be nothing but expedient and purposeful. According to Ludwig von Mises, "Human activity is purposeful behavior, the ultimate goal of which is always the satisfaction of the desires of the acting person" [23, p. 5-6].

Numerous definitions of the category "activity", given by scholars from the positions of different social and humanitarian sciences (philosophy, psychology, sociology, pedagogy, etc.), with some differences, quite understandable, due to the peculiarities of the subject of research or related to the emphasis on different aspects of this concept, are usually based on the understanding of activity as "a form of active purposeful interaction of a person with the surrounding world (including other people), responding to the need that caused this interaction as "need" for something" [1; 2; 3, pp. 189-192; 4; 5, p. 24-27; 8; 14; 17; 19; 20; 24; 25; 27; 29, p. 14-32; 30, p. 11; 35].

A detailed comparative analysis of the available definitions, which is necessary for a more in-depth study of this category in the aspect of the problem of criminal law impact as a specific type of human activity carried out by the competent authorities of the state (special state activity), allows formulating a generalized concept of it from the standpoint of jurisprudence with an emphasis on its most important features and properties, general and specific.

2. Materials and Methods

The research was based on the works of English, German, French, Russian and Ukrainian specialists in the field of philosophy, sociology, political science, pedagogy, psychology, etymology, economics, and law. The development of views on the category of "human activity" and its manifestations and varieties in various fields over several centuries was traced. Special attention was paid to modern criminal law and criminal law impact as a special activity.

General scientific and private scientific methods of cognition of social phenomena and processes (comparison, juxtaposition, analysis, synthesis, deduction, induction, etc.) were used.

3. Results and Discussion

Activity in the most general form is proposed to be understood as a form caused by objective necessity (needs for something) (options: a specifically human way; a process; a set of purposeful actions; a system of actions and operations united by a common internal motivation and aimed at achieving certain goals) active, expedient and purposeful interaction (active influence, impact) of the subject (person, collective, social group, community, state through its organs) with the environment

(the objective world; the surrounding natural and social reality) as an object of activity aimed at cognition and transformation of the object to meet this need. The subject of legal activity is society as a whole, its stable associations, and institutions: nations, classes, religious denominations, the state, the family, collectives, and the individual. The direct subject of legal activity in modern conditions is the legal organization of the state. The object of any activity is understood to be what (whom) it is aimed at. If the subject of legal activity is the legal organization of the state, its object is the legal relations that form the legal reality [7]. "Human activity is one of the means of bringing about change. It is an element of cosmic activity and becoming. Therefore, it is a legitimate object of scientific research. Since it is impossible (at least in modern conditions) to reduce it to its causes, it must be considered as a finite given and studied as such. The changes caused by human activity are insignificant in comparison with the action of the great cosmic forces. Man is an infinitesimal grain of sand from the point of view of eternity and the infinite universe. The activity is quite real for the person himself/herself. Activity is the essence of its nature and existence, a means of preserving life and raising it above the level of development of animals and plants. Despite the impermanence and transience of life, human efforts are of paramount importance for man and his/her science" [23, p. 8].

Based on a comparative analysis of the existing definitions of the "activity" category, it is possible to identify the following features and properties as the most significant ones.

1. Activity is generated by objective human needs (the need for something), the need to meet which serves as a "trigger mechanism" that activates the "active force of a person" (or another subject). The need determines the activity of the individual, its value orientations, goal-setting, will, emotions, and, in turn, perceives the opposite influence from the activity, its motivational factors. It determines the nature of mental and social conditions of activity, acts as the main factor in the regulation of personal behavior [5; 15; 18, p. 16; 19; 20; 31; 32; 33; 34], and other business entities. Among other things, the need serves as the basis for the corresponding state activities aimed at its satisfaction.
2. Human activity is a complex, systemically organized, functioning organism that is born out of an objective need, which assumes a meaningful implementation of a set of actions united by a common goal, and has its own, often complex structure, the main elements of which, in our opinion, are: the grounds (needs), subjects, objects, goals, content (methods, means, conditions for performing activities) and results (or consequences, if the result is, as it often happens, "not the" result that was set). There are other opinions, in particular, some authors include also the "transformation process" in the structure of the activity, the motives of the activity, the nature and direction of the specific actions that make up it, etc. [5; 15; 16; 17; 20; 23; 31; 32; 33; 34]

3. The activity is aimed at cognizing the object – the external world (the surrounding natural and social reality, including human behavior), and transforming it following the needs that led to the need for the corresponding activity, setting and implementing its goals [21; 22].
4. The content of the activity is a set of methods, means, conditions, and meaningful actions determined by its goals, united by a common focus on meeting the corresponding needs that caused it.
5. The complexity of the tasks associated with the satisfaction of permanently emerging human needs, and the complex nature of the activities generated by them, determine the stage-by-stage nature of its implementation. The authors often distinguish the following stages (also called processes) of the implementation of activities: decision-making; involvement in activities; goal-setting; designing actions; implementing actions; analyzing the results of actions and comparing them with the goals set. The specific number of stages (processes) and their content are determined by the goals of the activity, and its models in each case are built based on utility, necessity, and sufficiency.
6. The diversity of the needs underlying human activity, accordingly determines the diversity, differentiation, and classification of its types and forms of implementation. A variety of activities can be distinguished depending on the specifics of the needs, the goals and objectives caused by them, the content, nature, and methods of performing actions aimed at their satisfaction, the characteristics of the types of subjects and objects of activity, and in some cases on some other circumstances, the analysis of which is beyond the scope of this study, even a simple enumeration of which is of considerable complexity and here it seems impractical. In random order, it is possible to name such activities as scientific, practical, industrial, creative, ideological, informational, organizational, managerial, economic, political, social, cultural and educational, creative, transformative, etc.

The characteristic of human activity is of particular importance, specifically, for this study, differentiated depending on the underlying needs, its goals and orientation, to the formative, corresponding to the interests and development goals of the human community (constructive) and devastating, preventing these interests and goals (destructive).

It is necessary to distinguish between socially useful, legitimate, and constructive law-making, law enforcement, cultural and educational, etc. activities of state bodies and civil society institutions, and destructive illegal activities, the extreme manifestations of which are various types of criminal activities (corruption, terrorism, extremism, etc.). The first is generated by the second and is constantly

"fed" by it, while the second opposes the first and aims at its potential destruction or, at least, reduction and effective control over its state, structure, dynamics, and other manifestations.

Activities aimed at countering crime and other offenses, including those related to ensuring criminal law impact on criminal behavior and crime, are (or should be), of course, constructive and socially useful, so it can also, in turn, be differentiated, in particular, related to the prevention of crimes and other offenses, their suppression or reaction to their commission; related to the features of the functions and competencies of state bodies engaged in these activities, etc. [10; 13] Specific types of relevant activities differ from each other by the underlying needs, the content of the motives, goals, and objectives, as well as the means and methods of their implementation.

The above information about human activity in general largely relates to the characteristic of constructive special activities of the state related to the criminal law impact on criminal behavior and crime, which is the subject of this study. Therewith, the latter has its distinctive features concerning each of the above-mentioned aspects that characterize human activity as a whole.

The first of these features is due to the specific needs underlying these activities: the need to counter criminal manifestations by ensuring control over crime, its state, structure, dynamics, geography, with the goal, first of all, to reduce the most dangerous forms of criminal behavior. It is this objectively existing and increasingly acute social need that causes the need to respond to it, including in the form of criminal law impact as a special type of state activity. This need is the basis for such activities, determines its social purpose, setting goals, selecting the necessary funds, and the process itself (conditions, order, and sequence of actions) of implementing goals related to meeting the need.

Another important feature of the considered type of activity is that it finds its expression in the norms of legislation (criminal, criminal procedural and criminal-executive, and other), regulating responsibility for illegal activities, which ensures the satisfaction of the need to control crime [10; 13].

The term "activity" in the Criminal Code of the Russian Federation is mentioned repeatedly and in different capacities – either as Deprivation of the Right to Hold Specified Offices or to Engage in Specified Activities (Article 47 of the Criminal Code), or to characterize the personality of the victim: "committing a crime against a person or his/her relatives in connection with the performance of official activities by this person..." (Part 1 of Article 63, para. "b" of Part 2 of Article 105, para. "a" of Part 2 of Article 111, and other articles of the Criminal Code); or as a sign of the objective side of the various crimes: Crimes in the Sphere of Economic Activity (Chapter 22 of the Criminal Code); Obstruction of Lawful Business Activity (Article 169 of the Criminal Code); Illegal Banking Activity (Article 172 of the Criminal Code); Terrorism (Articles 205.1, 205.2, 205.3, 205.5 of the Criminal Code); Engaging in Illegal Private Medical Practice or Private Pharmaceutical Activity (Article 235 of the Criminal Code);

Extremist Crimes (Articles 282.2, 282.3 of the Criminal Code); Illegal Participation in Business Activity (Article 289 of the Criminal Code); Falsification of Evidence (Article 303 of the Criminal Code); etc. In several cases, the term "activity" is not named in the article of the Criminal Code, but it is clearly "visible", it is assumed, for example, in Art. 127.1, 127.2, 170, 171, 171.1, 171.2, 171.3, 205.4, 235.1, 238, 358, 359, and other articles of the Criminal Code.

Another distinctive feature of criminal law impact as a special activity of the state, which follows from its very essence as the state's reaction to criminal behavior and crime, is not so much interaction with the object, which is more typical for human activity in general and many of its types, as a response purposeful punitive influence on the object (on the behavior of the person who committed the crime, and the behavior of other unstable persons capable of committing a crime). If for the first – impacts, elements of dispositivity are more characteristic, taking into account the interests of different parties, different participants in the activity, and the reciprocal influence of the object on the subject, then the second – impact is carried out by the state authorities mainly imperatively and even by civil society institutions in many respects forcibly. Although interaction and the presence of "feedback" are also very desirable for optimal achievement of the overall positive effect for the criminal law impact.

A feature of criminal law impact is also that this activity is more accurately characterized not by basically static terms form or method, but by dynamic terms mechanism or process, implying the consistent implementation over a certain period of a set of expedient actions, combined general intrinsic motivation, general goals and focus – "the process of the subject's impact on the object to achieve a goal-setting result". In this process, the subject (the state, civil society institutions) purposefully influences the surrounding natural and social reality (the behavior of criminals and other unstable persons) as an object, to satisfy the social need to control crime (neutralizing its causes, reducing its level) [6; 31].

Finally, one of the most important features of state activity related to the implementation of criminal law impact on criminal behavior and crime is its connection with the system of the most important social (moral, ethical, legal, etc.) values, ideals, moral attitudes, worldview principles that have historically developed in society" [22] – humanism, mercy, justice, etc., which serve as the fundamental principles, guiding ideas, designed to ensure not only expedient but at the same time reasonable, rational and "human" implementation of the goals of the activity.

The activity of people acts as a real driving force and condition for the development of the human community, it is social in its origin, content, purpose, and goals. In this connection, the comprehensive analysis of all components of the mechanism of criminal law impact, undertaken by us:

its essence, goals, and principles, as well as the grounds, content, and forms of implementation, stages, subjects, and objects, is important and even necessary for understanding its features, properties, and capabilities in the field of combating crimes and other offenses.

4. Conclusion

Based on the characteristics of the general features of human activity and the distinctive properties of criminal law impact as its specific type, we believe it is possible to supplement the above-mentioned "working" definition with an indication of its most important specific features and properties in this particular capacity.

Criminal law impact is a specific type of human activity, in various forms of special state activities, carried out by the competent state authorities to counteract crime and ensure national security from threats of a criminal nature. This complex dynamic process of practical implementation of the state's response to criminal behavior has its limits and its complex structure and is characterized by its consistent, step-by-step implementation in response to the commission of individual crimes and the phenomenon of crime as a whole [13, p.187-225].

The most important characteristic feature of such activity is that it is a systemically organized and purposeful process as a complex functioning mechanism of constructive human activity, born from an objective social need to counter criminal manifestations, consisting in the planned systematic impact of the subject (state bodies, civil society institutions) on the object (behavior associated with the commission of crimes or capable of producing them) through the implementation of a system of necessary and sufficient ways and means and during the implementation of a set of expedient planned actions, united by a common goal to meet this need.

It should be emphasized that the conclusions we have formulated and the definition of the category of "criminal law impact" are preliminary since the features of this type of activity and its structural components are still very poorly studied and represent the subject of our further research. A deeper analysis and a more detailed justification of this legal phenomenon and the concept of it, its various parameters, properties, and capabilities in the course of our further research within the framework of the scientific project we are implementing will allow developing and formulating a more accurate and complete scientifically based understanding of this phenomenon and its potential opportunities in the field of combating crime.

Acknowledgments

The article was supported by the Russian Foundation for Basic Research (RFBR) in the framework of project No. 20-011-00141 A "Criminal law impact as a state response to crimes and criminality and its role in ensuring Russia's national security".

References

- Engestrom, Y. Learning by expanding. An activity-theoretical approach to developmental research, Helsinki, 1987.
- Holzkamp, K. Grundlagen der psychologischen Motivationsforschung. Fr./M.-N.Y., 1983.
- Agafonova, T.P. Legal rationality and legal goal-setting in the context of an activity-based approach to society. // Actual problems of the humanities and natural sciences. 2012. No. 2. p. 189-192.
- Bavsun, M.V. Criminal law impact: ideology, goals, and means of implementation: Dissertation of Doctor of Law. Omsk, 2013. p. 396.
- Barabanova, S.V., Shagieva, R.V. Theoretical and methodological foundations of the relationship between legal activity and legal practice // Vestnik Kazanskogo tekhnologicheskogo universiteta. 2013. V. 16. No. 16. p. 24-27.
- Big psychological dictionary / comp. and ed. by B. Meshcheryakov, V. Zinchenko. SPb.: Prime-EVROZNAK, 2004. p. 672.
- Demin, V.M. The nature of the activity. M.: Publishing house of Moscow State University, 1984. p. 168.
- Activity: theories, methodology, problems: collection / comp. I.T. Kasavin. Moscow: Politizdat, 1990. p. 365.
- Duyunov, V.K. On scientific approaches to the definition of the concept of criminal law impact. // Criminal law: development strategy in the 21st century: materials of 18th International scientific-practical conference., January 21-22, 2021, Moscow, Kutafin Moscow State Law University. Moscow: RG-Press, 2021. p. 288-292.
- Duyunov, V.K. Legal impact as a reaction of the state to an offense: general theoretical and sectoral aspects: monograph. Moscow: Yurlitinform, 2019. p. 328.
- Duyunov, V.K. Criminal law impact as a category of criminal law and as a reaction to crime and crime. // Pravo. Zakonodatelstvo. Lichnost. 2015. No. 1(20). p. 86-96.
- Duyunov, V.K. Criminal law impact: theory and practice: monograph. M.: Scientific book, 2003. p. 520.
- Duyunov, V.K., Zakomoldin, R.V. Criminal law impact in the mechanism of ensuring national security: monograph. Moscow: RIOR, 2020. p. 244.
- Egorova, N.A. Criminal law guarantees in the mechanism of criminal law impact. // Pravovedenie. 2016. No. 3. p. 172-195.
- Zimmel, G. Izbrannoe. Favorites. In 2 vols. Volume 2. Contemplation of life. M.: Jurist, 1996. 607 s.

- Information, education, didactics, history, teaching methods, and technologies. Dictionary of key concepts and definitions / compiler E.V. Shirshov. Moscow: Publishing House "Academy of Natural Sciences", 2017. p. 138.
- Kagan, M.S. Human Activity (Experience in Systems Analysis). Moscow: Politizdat, 1974. p. 328.
- Leibnits, G.V. Compositions in 4 volumes. Vol. 2 / editor, author of introductory article and notes, I.S. Narskii. M.: Thought, 1983. p. 686.
- Leontev, A.N. Activity. Consciousness. Personality. Moscow: Politizdat, 1975. p. 304.
- Leontev, A.N. Activity: theories, methodology, problems. Moscow: Politizdat, 1990. p. 366.
- Locke, J. Works in 3 volumes: V. 1 / ed. by I.S. Narskii, A.L. Subbotin; author of introductory article and notes, I.S. Narskii; translation from English by A.N. Savin. Moscow: Thought, 1985], p. 621.
- Maksimov, S.V. Purpose in criminal law: Abstract of the dissertation of the candidate of legal sciences. Ulyanovsk, 2002. p. 189.
- Baklanov, I., Rodionova, V., Ivashova, V., Shvachkina, L., Medvedeva, V., Social trends for increasing satisfaction with the educational services of a modern university (2020) Quality - Access to Success, 21 (179), pp. 88-90.
- Pedagogical Dictionary / Zagvyazinskii V.I., Zakirova, A.F., Strokova, T.A. et al. M., 2008. p. 352.
- Perret-Clermont, A. Social interaction and cognitive development / transl. from French. Moscow, 1990. 353 p.
- Petrov, I.F. O About human activity. // Simvol nauki. 2016. No. 3. p. 109-110.
- Russian pedagogical encyclopedia: in 2 volumes / editor-in-chief, V.G. Panov. V. 2: N - Ya.M.: BRE, 1999. p. 1160.
- Rubinstein, S.L. Problems of general psychology. Moscow: Pedagogy, 1973. p. 424.
- Sapun, V.A., Shundikov, K.V. Instrumental theory of law and human activity. // Pravovedenie. 2013. No. 1(306). p. 14-32.
- Smirnov, P.I. Activity as a form of human activity, specificity of human activity. // Credo New. 2010. No. 3. p. 11.
- Modern educational process: basic concepts and terms: a short terminological dictionary / M.Yu. Oleshkov, V.M. Uvarov. Moscow: "Sputnik +", 2006. p. 189.
- Socio-Logos: trans. from English, German, French / compilers of the general edition and foreword V.V. Vinokurov, A.F. Filippov. Issue 1. Societies and spheres of meaning. Moscow: Progress, 1991.480 p.
- Frank, S.L. Reality and Man: Metaphysics of Human Being: Monograph. Moscow: Direct-Media, 2016. p. 390.
- Fromm, E. Anatomy of human destructiveness / transl. from English by E.M. Telyatnikov, T.V. Panfilov. Moscow: AST, 2004. p. 635.
- Shtompka P. Sociology of social change / translation from English edited by V.A. Yadova. Moscow: Aspect Press, 1996. p. 416.