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Restorative justice in Russia

Should Russia apply restorative justice procedure? This problem is relevant because the modern punitive criminal law system of the Russian Federation does not meet the criteria of effectiveness and fairness.

As is well known, classical criminal law is a strictly public branch of law: criminal investigation according to the classical model is carried out regardless of whether the victim wishes to bring the perpetrator to criminal responsibility. However, in modern times, criminal law relations are becoming increasingly dispositive, since there is a more active role of the injured party in the criminal process.

Ways to respond to crime: modern justice paradigms. As shown by criminological research, the rate of increase in crime in the world is ahead of the rate of population growth; it is assumed that the same trend will continue in the future, humanity has fallen into the “criminal trap”. The growth of mercenary crime, as well as child, teenage and youth delinquency, is especially high, and organized and corruption crime has increased immensely and intensified. Such a disappointing forecast forces politicians, public figures, criminologists, specialists in criminal law and the process, as well as other branches of law to intensify searches in determining ways to respond to such a terrible threat.

These searches are clamped down by two value limits: the need, on the one hand, to toughen the fight against crime (the expression “control over crime” is considered to be preferable), on the other - to strengthen the protection of human rights. The “sensitivity” of democratic forces in post-socialist countries to the issues of establishing order is quite understandable. Studies show that totalitarian regimes quite successfully cope with traditional crime (we put out the wrongfulness of these regimes), since this goal is much easier to achieve while ignoring the value of human rights.

Finding a balance to successfully protect society from crime, while not violating human rights, is the problem that is at the forefront.

Another aspect of the problem is the protection of victims of crime. In the logic of “combating crime”, the victim is often used as a means of criminal prosecution and is subject to secondary victimization, already by the authorities, without actually meeting the needs arising from the crime.

The victim experiences special experiences, the depth of which sometimes does not depend on the legal assessment of the severity of the crime: a sense of vulnerability, previously inherent suspicion, self-incrimination, inability to express feelings, deterioration of relations with others. Despite the

difference in the procedural status of the victim (for example, from the United States, the victim receives the procedural status of the victim and, therefore, has a number of rights), his real position in various national legal systems is more or less identical. In the Russian process, the victim has a number of procedural options: to challenge, solicit, submit evidence, etc., "But in fact, it lacks qualified legal, psychological and material assistance from the state." The state uses the victim for the purpose of criminal prosecution, caring little about meeting its needs.

Awareness of the ineffectiveness and value-based vulnerability of the punitive response to crimes leads to the fact that despite the increase in crime, the main tendency in the criminal policy of many countries is to reduce penalties, reduce the number of prisoners and re-socialize people who violate the law. These trends are supported by the decisions of recent UN congresses. For Russia, which occupies one of the first places in the world in terms of the relative size of the prison population, totaling about one million citizens, the issue of reducing the number of prisoners is extremely important.

The punitive system existing in Russia and other countries is ineffective: it has a negative effect on the parties to the conflict and in fact does not allow justice to be restored. So minors and persons who committed a crime for the first time and (or) through negligence, after serving a sentence in places of detention, continue to commit crimes.

Therefore, there are other alternatives to the traditional punitive criminal policy, including "restorative justice". Restorative justice instead of censure and isolation of the culprit from the society offers his rehabilitation, instead of undergoing the victim additional moral suffering in the process of criminal proceedings and the actual impossibility of compensation for damage - full compensation to the latter of moral and material harm.

The bottom line is that the victim, the perpetrator and other interested persons:

- meet, analyze conflict (crime),
- develop ways to resolve it,
- fix the agreement documented.

All this happens with the participation of the third (disinterested) party - the intermediary. The contract concluded includes specific actions of the parties aimed at compensating the damage and restoring the damaged reputation.

In practice, the issue of the smoothing of guilt arises particularly acutely in terms of the psychological complexity of reaching an agreement. The victim, being in a stressful situation, as a result of a crime and having received a serious psychological trauma, is not always ready to forgive his opponent and reach a settlement agreement.

Oleg Dementiev, the Chairman of the Arbitration Court at the Tambov Oblast Chamber of Commerce and Industry, a member of the International Association for Assistance to Justice, noted that: Therefore, at present, the issue of revising the current punitive justice system is increasingly being discussed, putting at the heart of it not the principle of severity of punishment, but its inevitability and, most importantly, restoration of the violated rights and interests of the victim

Many countries already use this mechanism to resolve criminal situations, such as Canada, Australia, USA, Europe, etc.

On December 24, 2002, the United Nations Economic and Social Council adopted the General Declaration “Basic Principles for the Use of Restorative Justice Programs in Criminal Matters”.

Restorative justice has the following undoubted positive aspects recognized by the world community:

- the conflict situation is solved directly by its participants;
- The agreements reached satisfy all parties to the conflict;
- instead of opponents, the parties become allies in joint efforts to resolve the current situation;
- strengthens the spirit of empathy between people, humane attitude towards each other and promotes the practice of peaceful settlement of disputes;
- provides the most rapid and real smoothing of moral and material harm caused by a criminal act;
- partly relieves government agencies from working to resolve minor criminal conflicts;
- contributes to the socialization of the perpetrator;
- improves the criminal situation.

Thus, restorative justice is more interested in restoring the rights and interests of both the victim and the public interest, rather than focusing on punishing the guilty person.

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