

Поліщук Діана Василівна,
курсант 2-го курсу ННІ № 3
Національної академії внутрішніх справ
Науковий керівник: **Козубенко І. В.**
викладач кафедри правничої лінгвістики

CRIMINALIZING SOCIAL POLICY AND SOCIALIZING CRIME PREVENTION IN POST-APARTHEID SOUTH AFRICA

The extraordinary pre-eminence of crime as a social problem has forced many governments around the world to make controlling it a priority, to see it as essential to their continued legitimacy and, in democratic societies, a recipe for electoral success. In most cases this has meant investing vast resources in reacting to crime, in the agents and agencies of criminal justice. Where steps have also been taken to prevent it by less conventional means, controversy has arisen as social policy has been ‘swallowed up in the maw of law-and-order discourse’. Instead of being accepted as ends in themselves, creating jobs, improving schools and building homes are seen as means of preventing crime, disorder and anti-social behaviour. As one critic has put it, ‘The struggle against poverty inequality and repression’ has become secondary to the “war against crime” [1, p. 193].

At the same time advocates of situational crime prevention focused on criminal events and reducing opportunities to offend rather than people and their dispositions towards criminal behaviour complain that preventing crime is too often used to justify policies and interventions which may have other social benefits but are ‘apt not to produce any crime prevention at all’ [2, p. 205]. Thus, whether they are prompted by a desire to restrain the creeping criminalization of social policy or resist the unethical socialization of crime prevention, many contemporary observers agree that improvements in education, health, housing and support for employment should be made for their own sake leaving crime to be prevented either incidentally as a result of these initiatives, or by means of carefully designed situational measures aimed at making criminal offences more difficult and less rewarding to commit.

When South Africa’s first democratic government came to power in 1994 it was faced with the task of reconstructing a society scarred by a long history of colonial and minority rule. It had to deal with the glaring, and racially skewed, inequalities in wealth, income and standards of living institutionalized under apartheid and heal the still open wounds left by the struggle to overthrow it. The way in which the African National Congress led Government of National Unity which took office in 1994 and its immediate successors have responded to these challenges provides an intriguing case study of how the relationship between social policy and crime prevention develops under the most demanding conditions.

The newly elected government’s plan for the ‘final eradication of apartheid’ and the creation of a ‘democratic, non-racial and non-sexist future’ was a document known as the Reconstruction and Development Programme or RDP [3]. Based on

the Freedom Charter adopted by the African National Congress (ANC) and its allies almost 40 years earlier in 1955, the RDP acknowledged that ‘peace and security for all’ was essential to the wider project of nation-building but marginal to the immediate task of meeting people’s basic needs for land, housing, water, transport, health and social welfare. Controlling crime was a matter of bringing the police and other agencies responsible for safety and security under democratic control; preventing it required that remedies be found for the political, social and economic injustices of the past.

This early confidence in crime prevention through reconstruction and development did not take long to evaporate and, in 1996, the government published a National Crime Prevention Strategy (NCPS). Over a decade later, the NCPS remains by far the most comprehensive statement of official policy on the subject. Unlike the RDP, the NCPS explicitly linked preventing crime to promoting economic growth and development. Safety was ‘an essential pre-condition’ for the ‘development of a successful society’. But its authors were also convinced that meeting basic needs, creating jobs and expanding social welfare provision would ‘eventually impact on crime prevention’ even if this was not their ‘primary motivation’. Though the NCPS sought to balance the need for reactive crime control through the criminal justice system with ‘preventing crime at an early stage’, critics broadly sympathetic to the socialization of crime prevention have pointed to its lack of engagement with the structural causes of crime and been disappointed by the speed with which the government resorted to more familiar reactive measures to stem what was widely perceived as a rising tide of violent crime.

Like the NCPS before it, a government White Paper on Safety and Security published in 1998 acknowledged the long term preventive effects of social policy initiatives in housing, education and health being undertaken largely for other reasons. But it went on to call for a range of ‘developmental’ interventions – including early learning, parenting and employment training – to be targeted at groups thought to be at risk of offending. In doing so the government laid itself open to the charge of either criminalizing social policy by making crime-proneness the trigger for programmes which should be available to all citizens or (less plausibly) of attempting to socialize crime prevention by using spurious claims to preventive effectiveness in order to justify the introduction of policies which might (or might not) be desirable for other reasons.

When South Africa’s second democratically elected President, Thabo Mbeki, announced an Urban Renewal Programme (URP) in 1999, the transformation of social policy into the handmaiden of crime prevention seemed to be complete as a range of social and welfare measures were targeted on areas selected because of their ‘impermissible’ levels of crime and violence. Less than two years later, however, the relationship appeared to have been reversed as strengthening the criminal justice system became just one element in a campaign against urban poverty and underdevelopment. In parallel with the URP a National Crime

Combating Strategy was introduced by South African Police Service from April 2000. The second ‘normalization’ phase of this strategy called for the implementation of a range of social development projects to keep crime down in areas where police ‘crackdowns’ had succeeded in reducing rates of offending to tolerable levels. In recent years, conventional enforcement action by the police has supplanted earlier commitments to prevention in the NCPS and White Paper. This trend seems set to continue for some time to come as the ANC, victorious for a fourth time in elections held in April 2009, was elected on a manifesto which promises to ‘establish a new modernised, efficient and transformed criminal justice system’ capable of ‘fighting and reducing crime in real terms’. Fighting the ‘causes of crime’ is mentioned in passing, but no indication is given as to how this will be done.

The twists and turns in the relationships between preventing and reacting to crime and other social policy initiatives in health, welfare, education and training evident in the early years of South Africa’s new democracy reflect the difficulty of disentangling crime from other closely inter-connected, and often mutually reinforcing, social problems. Critical criminologists have long argued that crimes are no more and no less than that sub-set of social harms to which a given society chooses to respond by imposing penal sanctions on those responsible for causing them. That societies react to these harms in a distinctive way does not of itself say anything about their relative seriousness or the priority which should be given to preventing them. So it is entirely understandable that, faced with so many social problems - the HIV/AIDS epidemic, a chronic shortage of secure and affordable housing and widespread unemployment as well as high crime rates – successive South African governments have not responded to the urgings of lobby groups to make preventing or reacting to crime an overriding priority. There is little evidence to suggest that social policies which should have been judged on their own merits have been implemented on the strength of false promises that crime will be reduced but the temptation to criminalize social policy by directing welfare interventions towards high crime areas and at risk groups has not always been so easy to resist.

The broader question of when preventing crime genuinely is a priority - when reconstruction and development cannot take place without first taking action to improve safety and security - cannot be answered in the abstract.

And nor, for that matter, is running feeding programmes or providing basic incomes to those people if, and only if, they are robbing or rioting. If crime is not the pre-eminent social problem of our time, crime prevention cannot be the principal goal of social policy. But it may, under certain conditions, be an important one.

References:

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Прищеп Олексій Анатолійович,
студент 4-го курсу Інституту № 1
Національної академії внутрішніх справ
Науковий керівник: **Скриник М. В.**
старший викладач кафедри правничої
лінгвістики

PROBLEMS OF JUDICIAL REFORM IN UKRAINE

The need for a radical reform of the judiciary in Ukraine, taking into account international standards and world practice of democracies, is obvious, because the disorder that has prevailed in recent years in the legal system significantly violates the constitutional rights of citizens and limits their access to justice, effectively eliminating access to justice. crosses the transparency of justice, calls into question its effectiveness.

The basic principles of judicial procedure proclaimed by the Constitution of Ukraine do not work, in particular, such as equality of all participants in the trial before the law and the court, adversarial proceedings, ensuring the accused's right to defence, binding court decisions. As you know, the implementation of court decisions, in particular, the European Court of Human Rights is one of the most acute problems of protection and restoration of violated rights of citizens of Ukraine.

Reform of the judiciary should take place primarily in view of restoring public confidence to the courts, ensuring high professionalism of judges, honesty and integrity in resolving cases, independence in decision-making, without interfering in the professional activities of judges, access to justice, quick resolution of cases on the merits and prompt execution of court decisions.

Distrust of the domestic judicial system, distrust in its honesty and efficiency motivate citizens to seek protection of their rights in international institutions, in particular, the European Court of Human Rights, in the number of complaints in which Ukraine is among the leading countries. The analysis of appeals of Ukrainian citizens to the European Court of Human Rights gives grounds to claim