Article

Criminal Policy: An Examination of Some Concepts and Variables

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Abstract

Criminal policy plays a crucial role in combating criminal phenomena and exploring effective methods of prevention. It works by creating conditions to prevent criminal acts and by addressing offenders, aiming to reintegrate them into society. Whether achieving this goal or failing to do so is a measure of the success of the criminal policy implemented in a given society. Based on this methodological framework, this study aims to achieve a scientific understanding of the role of criminal policy in combating criminal phenomena, in order to benefit from it in both practical and academic fields. This study concluded that there is an interactive relationship between the criminal policy in place and crime itself, as well as between crime and the state's public policy. Respect for the legal and value system by individuals is ensured through the activation of the social and legal frameworks and the policy organizing society.

Keywords: Crime; Social Defense; Policy; Felony; Criminal Policy; Criminal Phenomenon

Introduction

If one reflects on the phenomena occurring daily around them, it is no doubt that criminal phenomena occupy the top rank among all observable phenomena. This is primarily due to their long-standing existence and their association with human life since its inception, even before societies were formed in the way sociologists, educators, and political scientists commonly understand them. Crime is the oldest human activity; it has become a characteristic of social life, present in every society regardless of its size, sophistication, or stage of development. It is an act that deviates from the social values, customs, norms, and laws, and is punishable by law, reflecting the state's response to this pathological phenomenon that threatens the social structure of societies. To achieve this control, both formal institutions (such as judicial authorities, courts, and laws) and informal institutions (like families, mosques, customs, and traditions) play a role in regulating individuals' behavior through set frameworks to prevent chaos and maintain public order. However, there are those who resist following and adhering to these rules, leading to the emergence of deviance and crime in all its forms.

As society has developed, crime has evolved in both quality and quantity, taking on different characteristics and employing various methods. This leads to the destruction of individuals, families, and societies. Crime has become one of the most significant challenges facing society, and Algeria is among the countries struggling with criminal phenomena. Therefore, addressing the issue of crime has become an urgent necessity to protect humanity from its harms and maintain social structures. In this context, both international and national efforts have been made through various conferences and agreements aimed at preventing the spread of crime. A modern criminal policy aimed at combating the spread of criminal behaviors among societal segments has been adopted, with a focus on reconsidering anti-crime strategies. Undoubtedly, the importance of studying and developing criminal policy has become a priority that is highly anticipated to be addressed practically, especially given the increasing impact of crime in society. This remains one of the central goals pursued by all countries today, especially Algeria. Ensuring the activation, development, and elevation of criminal policy to the desired level, both locally and internationally, remains one of the main concerns of specialists in this field, including criminologists, sociologists, and legal scholars, particularly in light of the growing challenges posed by crime in society.

From what has been mentioned, the following issue can be raised: What is meant by criminal policy? And how effective is it in combating the criminal phenomenon?

First: Defining the Study's Concepts

Defining terms and formulating concepts is a challenging task for researchers in the social sciences, as the researcher in the field of sociology deals with changing and flexible social phenomena. Concepts are the intellectual tools that need to be understood before diving into the study. Opinions vary regarding their meanings, depending on the researchers' orientations and perspectives.

I.Criminal Policy

Criminal policy represents the rules that define the formulation of legal texts and rules, i.e., the texts of criminal law concerning crime and punishment, or preventing it through crime prevention. This is based on the legislator's approach, aiming to achieve the requirements of a state based on law and justice. It involves creating rules based on which the formulation of criminal law texts is determined.

1.Policy

1.1.Linguistically: It comes from the verb "sasa," meaning to govern or manage. The term "sasa" is used to describe governance, such as a ruler managing the people. In Western dictionaries, the term "policy" is derived from the Greek word "politeia," meaning state, constitution, political system, republic, etc. It refers to political matters, civil matters, and everything related to the state, constitution, and political system.

1.2.Philosophically: Ibn Sina defined it as the good management of both individual and collective affairs and the reform of corruption, which leads to happiness. It is the art of practicing leadership and governance. It is also the unique social activity that organizes public life, ensures security, and maintains balance and harmony through legal power and sovereignty over individuals and competitive and conflicting groups in a system of independent governance based on relationships of power that determine participation in authority according to contribution and importance in maintaining the social system and functioning of society.

1.3.Procedurally:

It is the set of relations and systems that connect the state to the individuals of society, including order and conflict, agreement and disagreement, rights and duties...

2 Felony:

2.1. Linguistically: From the root "Jana," meaning to commit a sin or bring it upon oneself. Felony

refers to a crime or offense. "Jana" means to commit an offense or sin, and a "Jani" (offender) claims that someone has committed a felony they did not do (Lisān al-'Arab, 1997, p. 239).

2.2.Legally:

In Algerian law, the legislator uses the severity of the criminal act as the standard for defining a felony. An act is considered a felony if it is punishable by death, life imprisonment, or a temporary prison sentence, according to Article 5 of the Algerian Penal Code (Article 5- Law No. 06-23 dated December 20, 2006).

2.3.Procedurally:

A felony can be defined as any aggressive act that leads to a punishment, varying based on its severity and gravity.

3. Criminal Policy

3.1. Linguistically: The concept of criminal policy is composed of two words: "policy" and "felony," which we have already defined above.

3.2.Legally: Criminal policy has varied and differed according to philosophical, scientific, and social trends, as well as based on the historical development stages. Criminal policy can be defined as the plan adopted by the state to combat crime. It refers to organizing the means of fighting crime in a specific country. These means take various forms and aim at a specific goal: combating criminal phenomena (Fetouh Abdullah, 2000, p. 7).

Criminal policy is defined as "a set of strategies that can be adopted at a certain time in a country to combat crime there."

Others have defined it as "a set of means determined by the state to punish criminal actions, aiming at a specific goal, which is the fight against crime" (Sarour, 1982, p. 14). It is also known as the rational organization of social reaction to crime in a specific society at a particular time. "Feuerbach" is considered the first to introduce the term "criminal policy" in his book published in 1803, where criminal policy at the time was understood as "a set of repressive means – i.e., punitive measures the state uses against crime" (Al-Aouji, 1980, p. 123).

The German scholar "Klaustroth" defined it as "a legislative art that determines the means the legislator seeks to prevent crimes and protect citizens' rights, according to the conditions of each state."

"Von List" defines it as "the organized set of principles adopted by the state to organize the process of combating crime. It is the use of criminal law to effectively resist crime" (Al-Aouji, 1980, p. 123).

He also added that addressing crime should be based on scientific research into its causes, thus combining criminal science with the state's policy in combating crime, blending science and

the art of policy. However, the focus remained on the punishment as a means of confronting and counteracting crime.

Dr. "Mohamed Eid Al-Gharib" provides a simpler definition, stating that it is "the science that studies what the law should be in the future, not what it currently is" (Eid Al-Gharib, 1999, p. 13).

4. Criminal Phenomenon

If a person reflects on the phenomena occurring daily around them, it is no doubt that the criminal phenomenon occupies the top rank among all observable phenomena. This is mainly due to its long history and its association with human life since its beginning, even before societies took their form as understood by sociologists, educators, and political scientists. Crime is the oldest human activity; it has become a characteristic of social life, present in every society, regardless of its size, sophistication, or stage of development. It is an act that deviates from social values, customs, norms, and laws, and is punishable by law, reflecting the state's response to this pathological phenomenon that threatens the social structure of societies.

4.1. Defining the Phenomenon

4.1.1. Linguistically: To appear or manifest, to become clear or stand out after being hidden. Everything that is visible in society (http://www.maajim.com).

2.1.2 Legally: It refers to empirical events that can be observed in social life as a result of the influence of one person or community on another person or community.

Procedurally: It is any event that can be observed, monitored, and studied scientifically.

4.2. Defining Crime

4.2.1. Linguistically:

The term "crime" means to transgress or violate, and it refers to a serious offense. To "commit a crime" means to do wrong. A "criminal" is the one who has committed a crime (Lisān al-'Arab, 1997).

4.2.2 Legally:

Legally, a crime is any act that is punishable by law, whether it is an action or omission, such as negligence or failure to act. Crimes are classified into three categories based on the severity of the punishment: felony, misdemeanor, or infraction. It is behavior that the law prohibits, and for which there is a legal penalty or precautionary measure (Werya Khmoud, 2010, p. 24).

It is also defined as any unlawful act, performed with malicious intent, for which the law prescribes a penalty or precautionary measure.

It is the act that violates the penal code, thus requiring the imposition of a criminal penalty and exclusion from the reality of the event (Al-Samari, 2010, p. 16).

It is also defined as the act that contradicts criminal law, and individuals who commit it are sentenced by a court ruling.

It is a violation of criminal law, and thus constitutes an attack against society. As such, it represents a social and legal phenomenon practiced within societies, linked to the circumstances of society (Hussein Al-Sa'ati, 2005, p. 20).

It is a violation of a legal rule, which necessitates punishment and deterrence. Crime does not gain meaning except in light of legal rules, and it is behavior that the law prohibits, and for which there is a criminal penalty or precautionary measure (Abdulhadi, 2009, p. 40).

The Algerian legislator, in Article 1 of the Penal Code, states that there is no crime or security measures without a legal text (Article 40 of the Algerian Constitution, 1998).

Social Definition: It is a human behavior that contradicts the values inherited by human societies. It is abnormal behavior that disrupts the elements of social stability and security (Mustafa Muhammad, 2008, p. 50).

Many sociologists agree that crime is a social phenomenon, and what is considered a crime results from the legislation of the group for some actions of its members, whether it is punished by law or not. This means that the standard of whether it is upright or not is based on social standards, not legal ones (Muhammad Zaki, 1981, p. 33).

Supporters of social factors define it as behavior that is opposed to society, thus harming the social interest of the community.

Crime is also defined socially as an act that contradicts the general sentiment of the group, and it is any individual or collective act that constitutes a breach of the rules of social control established by the community, which can be expressed through the values, traditions, and customs prevailing in society (Obaid, 1993, p. 93).

Definition of "Garofalo": The society is the basis for criminalizing any act committed, meaning that in his definition of crime, he relied on a social criterion and analyzed the emotions of society as expressed through human behavior. He came up with two types of crimes:

1. Natural crimes, which are agreed upon by societies as crimes across all times and places, as they conflict with feelings of compassion and loyalty, such as assaults on individuals and property crimes.

2. Artificial crimes, which are crimes against unstable emotions—emotions that are subject to change, such as religious sentiments, modesty, and patriotism (Al-Qahwaji, 1985, pages 13-14).

From a psychological perspective: It is behavior that is antagonistic to society, and it can be said that it is abnormal behavior requiring treatment. Psychologists believe that behind every crime there are psychological conflicts that led to its occurrence, as it is a result of the struggle between the instinct of self-preservation and social feelings (Mohamed Nasr, 2012, page 43).

Ethical definition: It is any act or omission that contradicts the prevailing values, ideas, and principles in society. Crime is considered a violation of the agreed-upon moral values (Al-Sayed, 2008, page 100).

Procedural definition: It is any behavior or act that goes against social norms and legal values, carried out by an individual or a group of individuals, resulting in material or moral damage, for which the perpetrator is subject to punishment.

Definition of the criminal phenomenon: Procedurally, social phenomena are behaviors that are repeated by individuals in society over long periods of time, thus acquiring a general character, and they are referred to as "phenomena." Researchers divide them into two categories: positive phenomena, which contribute to building and stabilizing society and organizing its institutions, and negative or pathological phenomena, which lead to the destruction of society and require monitoring and reduction. There is no doubt that crime is one of the pathological phenomena that has always been and continues to be one of the thorny issues that exists in every society, whether small or large, developed or underdeveloped, ancient or modern. It is an act outside what society has agreed upon in terms of values, customs, norms, and social laws, and it is punished by law to control this pathological phenomenon that threatens the social structure of societies. To achieve this control, there are official institutions (such as judicial authorities, courts, laws, etc.) and unofficial institutions (such as the family, mosques, customs, and traditions) that play a role in the social control process by setting specific regulations that individuals are expected to comply with as legal and social norms, in order to prevent chaos and maintain public order in the state and society. However, at the same time, some refuse to comply with these rules, leading to manifestations of deviation and crime in all its forms. This may be due to the interplay of psychological, cultural, and social factors.

Second: Areas of Criminal Policy (Its divisions)

Criminal policy areas are branched based on their objectives, which in turn determine the formulation of criminal law texts, whether in terms of preventing crime or dealing with it. They define the necessary principles in determining what is considered a crime and adopting preventive measures and prescribed punishments.

1. Criminalization Policy: This policy includes what concerns the interests deemed important for society through criminalizing acts that harm these interests. It encompasses both individual and collective social interests from being violated. Criminal policy forces the criminal legislator to balance between the interests of the individual and the interests of the group to ensure stability within society. Thus, criminal policy is not limited to defining the principles needed to prevent crime and imposing the prescribed punishment, but also extends to defining the principles of criminalization and punishment in its early stages. "Ahmed Fathi Surour" points out that, accordingly, there must be a distinction between criminalization policies, as the criminalization circle in criminal law differs from the criminalization circle required by social interests according to criminalization policies. The legislator may modify his position in line with this policy (Rahmani, 2006, page 159).

The state performs its penal function to protect social interests by choosing the most appropriate framework and method that best reflects society's appreciation of the importance of these interests, which deserve legal protection according to the circumstances and needs of each society. Criminalization is considered the highest form of protection that legislation gives to a particular type of interest that concerns society. Criminalization policies vary from one country to another due to differing interests worthy of legal protection. If the legislator sees that the scope of criminalization in criminal law differs from the scope of criminalization required by social interests, he may modify his position accordingly. The success of criminal policy in an important part depends on criminalization policy. If criminalization targets what should not be criminalized or neglects what should be criminalized, or places acts that should be classified as felonies under misdemeanors or infractions, or vice versa, the system of society would collapse (Rahmani, 2006, page 175).

The state performs its penal function to protect social interests that prevail in society, choosing the most appropriate punishment that best expresses society's value of these interests. If the state decides that an interest requires the highest levels of legal protection, it expresses this through punishment and determines the interests worthy of legal protection based on the circumstances and needs of each society, which are influenced by its traditions, social, economic, and political systems.

Criminalization is related to penal policy, as a legal rule has two components: one relates to the obligation of a specific behavior, while the second is concerned with the criminal penalty that results from violating this obligation. This penalty is the punishment, meaning that the method of protection is criminal punishment. Therefore, policy makers must understand the content and severity of the penalty to best reflect the scope of criminalization as the legislator sees it. Moreover, punishment, regardless of its type, represents the element of enforcement in the penal rule (Surour, 1982, page 19).

2. Punishment Policy:

Punishment policy is a means of implementing a specific part of criminal policy, which is fundamentally linked to criminal law. It defines the principles upon which punishments are based and applied. It complements criminalization policy, which cannot function alone without the imposition of punishment. Punishment policy is about defining the essential principles for determining, applying, and enforcing punishments, as the determination of punishments complements criminalization, which cannot function without penalty, as indicated by the first article of the Penal Code: "No crime or punishment or security measures without a legal text." Punishment, in its essence, is harm inflicted on the offender as a deterrent and warning to others who may consider committing similar acts of aggression against others.

Punishment science studies the wisdom behind imposing criminal penalties, whether a punishment or a precautionary measure. It seeks the best methods and techniques for carrying out this punishment. In the past, the prevailing idea was that crime was a social evil, and to confront this plague, there must be a penalty as harsh as the crime itself, which explains the severity of punishments at that time (Ben Sheikh, 1999, page 6).

The perception of crime and punishment has changed throughout history, such that punishment is no longer the only means of social defense. Instead, the focus is now on finding alternatives to deprivation of liberty and new methods of penal treatment in line with the modern trends of criminal policy, aiming for rehabilitation, reintegration, and reform. This is the modern vision of reforming the prison system, aiming to gradually eliminate punishment as a basic system that has failed to curb crime. According to the modern perspective on social defense, combating crime involves seeking new alternatives to deprivation of liberty (Rahmani, 2006, page 265).

The stages that punishment science has gone through can be summarized as follows:

1. The first stage: In this stage, the focus was on the punishment itself and how to implement it. Rarely was the focus placed on penal institutions due to the lack of concern for the personality of the offender.

2. The second stage: Attention shifted to the personality of the offender, which is reflected in the principle of individualized punishment, where the punishment is diversified based on the character of the offender, not based on the severity of the crime.

3. The third stage: The concept of precautionary measures emerged in the mid-19th century and began to gain prominence in legal systems, thanks to the teachings of the school that advocates determinism in human behavior as the basis for responsibility. Criminal penalties in criminal policy take two forms: punishment and precautionary measures.

Punishment policy outlines the goal of penalties in their three consecutive legislative, judicial, and executive stages, specifying the means to achieve this goal. It is noted that penalties are generally defined in legislative texts, and it is the judge's responsibility to apply them in practice. The role of the legislator is limited to outlining the principles that judges should follow when imposing penalties according to the system set by the legislator (Surour, 1982, page 20).

In other words, state authority in punishment refers to the state exercising its authority to maintain public order and combat crime through criminal law. The penal function in the state is a result of the development in this field, which has allowed the state to claim the rights of society, represented by the public prosecution as the body that pursues public rights.

3. Crime Prevention Policy: Preventive policy is crucial before a crime is committed. This policy focuses on the period before a crime occurs, as punishment alone is not enough to prevent it. It is reflected in the actions and measures taken by those involved in criminal policy to prevent criminal behavior and eliminate the factors that create opportunities for crime. Based on the principle that prevention is better than cure, "Ahmed Fathi Surour" points out that the difference between social policy and punitive policy lies in the fact that the danger targeted by punishment is related to the crime, hence it is called "criminal danger," while the danger targeted by preventive measures precedes the crime, and thus is called "social danger." The overlap between preventive policy and social policy appears in addressing the social causes of crime, as both aim to treat these causes. However, the difference lies in the fact that preventive measures only target addressing social danger.

Social policy, on the other hand, is concerned with addressing all social problems, regardless of their relationship to social danger, and is focused solely on the social causes of crime, among other causes. (The term "prevention" refers to the preventive aspect of preparing the necessary conditions that prevent crime from occurring. Since every crime has causes and precedents, criminology has allowed for the identification of some factors that predict the commission of crime. Consequently, prevention targets these causes and factors) (Rahmani, 2006, page 229).

The Prevention Policy:

The prevention policy determines the necessary measures to address the social danger of an individual in order to prevent the commission of a crime. This policy is one of the results of criminology, which enabled the identification of the causes of crime. It is better not to wait for the crime to occur but to intervene before it by fighting its causes through measures aimed at preventing crime.

Thirdly: The Movement for Social Defense:

Its roots go back to ancient times and all the theories that were proposed regarding punitive policies throughout the ages, including writings of ancient Greek philosophers like Aristotle, and modern thinkers such as Montesquieu, Voltaire, Bentham, Hobbes, Feuerbach, and Romaniuzzi. The latter expressed the idea of social defense by saying: "The goal of criminal law and punishment is not to torture or inflict pain on a living being, or to satisfy a desire for revenge, or atone for a crime, or to consider it as if it never happened. Instead, it is to deter every evil so that it does not harm society in the future" (Yasir & Osman, 1993, p. 333).

Cesare Beccaria believed that the purpose of punishment is general deterrence based on society's right to defend itself, that is, taking punishment as the foundation of punitive treatment. Social defense had significant support from proponents of the Positivist School, but with a new meaning, which suggests that the goal of the criminal system in general is to defend society against the criminal, not against the crime itself. This requires sacrificing the criminal for the protection of society. Thus, this school accepted the possibility of imposing criminal sanctions based on the criminal's dangerousness, not the criminal act itself or the offense. This would expand the scope of punishment to include all criminals, regardless of their capacity for understanding or free will. However, since the early 20th century, social defense has taken a new dimension, asserting that the goal of the criminal system should not solely be to defend society from the criminal and protect it from their harm, but also to focus on rehabilitating the criminal and attempting to reintegrate them into society. Thus, contemporary social defense is a theoretical and practical movement aiming to direct criminal rules and regulations toward the rehabilitation of the criminal, so they can reintegrate into society once again. It thus calls for necessary penal reform (Al-Sayyid, 2008, p. 130).

This contemporary movement of social defense has two directions: one is extreme, led by the Italian jurist Filippo Gramatica, which is the traditional approach, and the other is moderate, led by Mark Ansel.

1. Emergence of Social Defense:

The concept of social defense is not new; its uses date back to ancient times. Criminal law, with its system of punishments, has always aimed to protect society. This concept gained significant attention at the end of the 19th century thanks to the Italian Positivist School. The anthropological and sociological school, led by Lombroso, Ferri, and Garofalo, denied the moral responsibility and deterrent punishment that had been the foundation of criminal law. According to this school, criminal law should not seek punishment for wrongdoings as much as it should aim to achieve social defense.

The idea of social defense clearly emerged with Filippo Gramatica, who worked as a professor of criminal sciences at the University of Genoa. He founded a center for social defense studies in 1945 in Genoa and organized several international scientific conferences on the idea of social defense. The first of these conferences was in San Remo in 1947, and the second was in Liège in 1949, during which the International Association for Social Defense was established, chaired by Gramatica. The association held many more conferences on social defense. Later, the idea was carried to the United Nations in 1948, which created a Social Defense Department under the Economic and Social Council to guide activities in crime prevention and the treatment of criminals, with special attention to juvenile delinquency. The idea of social defense then spread from the international level to the regional level within the Arab world, where the Arab International Organization for Social Defense was founded in Cairo in 1963. This is where the influence of the social defense concept began to take shape in Arab criminal legislation (Mustafa Al-Sayfi, 1972, p. 92).

1.1. Concept of Social Defense:

The opinions on social defense vary and differ among jurists and scholars in the field of crime. These can be summarized as follows:

- Traditional Concept: This concept focuses on protecting society from crime by harshly suppressing crimes committed. This protection was often sought through severe punishments in old criminal law systems, which weakened social defense operations (Alam, 1991, p. 32).

- Modern Concept of Social Defense: The idea of punishment dominated for centuries, with some thinkers like Moyardi Fuglian asserting that "leniency leads to crime, and harsh punishments are necessary to reduce them." However, the modern concept of social defense emerged as a reaction against this punitive system. It assumes a specific criminal policy that stems from social sciences, psychology, and criminology, going beyond the criminal law as a legal framework.

The first concept relies on the fundamental idea of relying on punishment and its severity in response to crime, meaning strict adherence to criminal law or the criminal code. The second concept, however, has two approaches: one from Gramatica and the other from Mark Ansel. Both agree on reforming the criminal system.

2. Directions of Social Defense:

- 2.1 Social Defense according to Gramatica:

Gramatica presented his doctrine in his book "Subjective Criminal Law" published in 1934 in Turin. In 1954, he published several articles, many of which appeared in the International Journal of Social Defense. One of these articles was titled "Defense Against Punishment" (Arzaki, 2002, p. 32).

His ideas sparked a wide debate among jurists, and many considered them transitional justice and a consolidation of the idea of impunity. In 1961, Gramatica published a book called "Principles of Social Defense," in which he called for a comprehensive overhaul of the criminal system, including criminalization, punishment, and procedures. He argued that the goal of social defense is effective protection of society and reform, but this reform can only be achieved through individual rehabilitation and making the individual social. He advocated for abolishing criminal law, criminal justice, the concepts of crime, criminals, and criminal responsibility, and replacing them with a social defense law, focusing on deviation and opposition to society, preventive and social therapeutic measures. He also called for delegating rehabilitation to the executive authority, which would conduct a comprehensive social study of every deviant, armed with modern experimental sciences to diagnose the causes of deviation and then determine the appropriate preventive measures for reform and treatment.

He argued for replacing the criminal act with the criminal personality in assessing the degree of social deviation. Thus, the criminal's personality should be examined to identify the causes of deviation and then determine the appropriate action based on their circumstances.

- 2.2 New Social Defense according to Mark Ansel: Mark Ansel opposed Gramatica's theory, providing the foundations for modern social defense. He believed that Gramatica went too far in removing the phenomenon of crime entirely from the scope of criminal law and restricting it to the social sphere only. His response was moderate social defense, which places the criminal phenomenon back in its legal context.

In 1940, Ansel published his book "New Social Defense: A Movement for a Humane Criminal Policy," which focused on the following principles:

- Ansel supported traditional criminal law rules and did not deny the principle of legality. He did not go as far as Gramatica in abolishing criminal responsibility or criminal and social penalties. He believed that criminal responsibility should be based on a mistake rooted in free will and that the driving force of this responsibility is the crime itself, not the anti-social act or societal rebellion, as Gramatica put it.

- He argued that the goal of criminal law is to protect society, but its purpose is not merely to punish the perpetrator for their wrongdoing. Instead, the goal is social protection, where punitive treatment aims to develop a sense of responsibility in the criminal, preventing future criminal behavior.

- Ansel emphasized the importance of considering the criminal's personality in criminal treatment, weighing factors such as biological, social, and psychological influences that contribute to criminal behavior. By focusing on the criminal's personality, appropriate methods for criminal treatment could be identified, and the judge could select a suitable penalty or preventive measure to aid in social reintegration.

- He maintained the idea of criminal penalties in both punishment and measures, attempting to reconcile crime prevention before it occurs while preserving individual liberties. He also advocated for humanizing criminal law and punitive treatment by establishing a minimum defense program.

Ansel's principles of social defense are considered fundamental rules in criminal sanctions, general criminal treatment, and criminal responsibility (Mustafa Muhammad, 1996, p. 81).

The social defense policy, according to Ansel, aims to protect the individual. It does not recognize an absolute value for the state nor grant it arbitrary powers but imposes on the state defined duties toward its citizens, even criminals. This is referred to as "the right to rehabilitation." From the above, we can conclude that social defense, in both its extreme and moderate forms, is a result of the evolution of criminal policy, which has shifted from bodily punishment to psychological punishment, from the concept of punishment to the idea of impunity, while still pursuing the goals of punishment: general deterrence, specific deterrence, social reintegration, and criminal reform. Modern policies call for abandoning the failed punishment system, especially in addressing the most serious crimes, and instead finding alternatives to imprisonment and implementing them in practice.

Conclusion

Conclusion

In light of this, it can be said that the success of criminal policy in combating criminal phenomena is not limited to merely having a legal arsenal in the form of various legal rules, but

rather, it requires well-thought-out strategies that take into account the lived reality. More importantly, it depends on the ability of the legal and judicial institutions, including their personnel, to implement these strategies as planned. The problem does not lie in theoretical discussion or legislative drafting, nor does it concern the quantitative or qualitative aspects of legislative texts. Instead, the issue lies in the execution phase, or more specifically, in the mechanisms of execution, which threaten the effectiveness of criminal policy and the measures taken. Indeed, the practical application of these principles and the law above all may simply remain a philosophy that has no connection to the lived reality.

If Algeria's legislative framework has contributed to some extent to confronting criminal phenomena, the question that increasingly demands an answer is: Why do we see a rise in the crime rate, with an average of 700 crimes a day according to recent statistics? How do we explain this field outcome? Is there a crisis that is negatively affecting the effectiveness of the policy and contributing to an increased criminal outcome? Or is there a flaw and negligence in scientific research related to this issue, in the practical application within institutions and frameworks, as well as a media failure to highlight the weaknesses in the content of criminal policy? This suggests the presence of a crisis in punishment or a crisis in criminal law itself, which may be among the motivating factors for adopting criminal behavior or recidivism. Additionally, the specific characteristics of Algerian society, coupled with political, social, and economic crises, have led to the widespread growth of criminal phenomena.

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