

SPECYFIKA ZACHOWANIA OSÓB SKAZANYCH, JAKO OFIAR, W MECHANIZMIE PRZESTĘPSTW

Liliana Tserkunyk

Doktorant Wydziału Prawa,

Użhorodski Uniwersytet Narodowy, (Użhorod, Ukraina)

tserkunykovali@gmail.com

Streszczenie. W artykule naukowym autor przeprowadza badanie nad pojmowaniem wiktymnych zachowań człowieka w ogóle oraz osób skazanych, które stały się ofiarami przestępstw popełnionych w zakładach karnych, w szczególności. W założeniach artykułu naukowego zaznacza się, że w samej genezie popełnienia przestępstwa znaczące miejsce zajmuje mechanizm zachowań wiktymnych, który obejmuje zachowanie ofiary, sprawcy i sytuację, w której osoba staje się ofiarą przestępstwa oraz jej bezpośrednie przyczyny. Jako wniosek, autor reasumuje - po pierwsze, na podstawie uzyskanych wyników badań, cechy zachowań wiktymnych mogą mieć charakter: konfliktowy, prowokacyjny, lekceważący. Po drugie, pozycja potencjalnej ofiary zamierzonego przestępstwa, styl życia, specyfika jej zachowania w połączeniu z sytuacjami wiktymologicznymi oraz uwarunkowanie relacji z potencjalnym sprawcą mogą przyczynić się do powstawania w świadomości osoby zamiaru przestępczego, stymulować jego społeczne nastawienie oraz zdecydować o formie i sposobie popełnienia przestępstwa.

Słowa kluczowe: kryminologia, przestępstwo, mechanizm, zachowanie, wiktymologia, poszkodowany, skazany.

SPECIFIC FEATURES OF CONVICTED PERSONS AS THE VICTIMS IN THE CRIME MECHANISM

Liliana Tserkunyk

post-graduate student of the Department of Law

Uzhhorod National University, (Uzhhorod, Ukraina)

Abstract. In the present scientific paper, the author investigates the understanding of the victim conduct of a human in general and that of the convicted persons, who became injured due to the crimes committed, in particular, at the penitentiary facilities. The author states that the victim conduct mechanism holds an essential place in the crime genesis, and this covers the conduct of a human, a guilty person, a situation, in which the person becomes the victim of the crime, its direct causes. Concluding, the author states that, first, in accordance with the results of the present studies the victim conduct may be a conflict one, a provocative one and a thoughtless one; second, the position of the potential victim of the criminal intention, his/her life, specific features of conduct together with the victimologic situations and prerequisites of relationships with the potential offender may favor the origin of the criminal intention in the person's consciousness, stimulate its antisocial attitude and choose the way of committing the crime.

Key words: criminology, crime, mechanism, conduct, victimology, injured person, convicted person.

ОСОБЛИВОСТІ ПОВЕДІНКИ ЗАСУДЖЕНИХ ЯК ЖЕРТВИ У МЕХАНІЗМІ ЗЛОЧИНУ

Ліліана Церкуник

аспірант юридичного факультету

Ужгородського національного університету, (Ужгород, Україна)

Анотація. У науковій статті автор проводить дослідження розуміння віктимної поведінки людини загалом та засуджених осіб які стали потерпілими від злочинів вчинених в установах виконання покарань зокрема. Автор у положеннях наукової статті зазначає, що у генезисі вчинення злочину значне місце посідає механізм віктимної поведінки, що охоплює поведінку людини, винної особи, ситуацію, в якій особа стає жертвою злочину, її безпосередні причини. Як висновок автор зазначає, по-перше, виходячи з отриманих у ході даного дослідження результатів, за своїм характером віктимна поведінка може бути: конфліктною, провокуючою, легковажною; по-друге, становище потенційної жертви злочинного наміру, спосіб її життя, особливості її поведінки в сукупності з віктимологічними ситуаціями та передумовами взаємостосунків із потенційним правопорушником можуть сприяти зародженню у свідомості особи злочинного наміру, стимулювати її антисуспільну установку, вибрати спосіб учинення злочину.

Ключові слова: криминологія, злочин, механізм, поведінка, віктимологія, потерпілий, засуджений.

The problem statement. In the genesis of committing a crime, the mechanism of victimal behavior occupies a significant place. According to criminological research, "behavior" has a certain structure, which is consistently deployed in relation to the logic of internal (mental) processes and external (objective) circumstances of place and time. It is the interaction of these processes and circumstances that should be called the mechanism of victimal behavior of the individual. Such a scheme makes it possible to characterize victim behavior and its mechanism. At the doctrinal and practical levels it is proved that the crime according to its psychic structure, as a rule, does not differ from other actions of people. In this case, the factors affecting it may be specific, but their socio-psychological nature is the same as lawful actions. That is why the definition of a crime characterizes it as a concept of socio-historical and legal, and its specific features do not violate the basic qualities inherent in any human action.

An analysis of recent research and publications, which began the solution to this problem, the allocation of previously unsettled parts of the general problem. In the science of criminology, the issue of victim behavior was the subject of scientific research by both Ukrainian and foreign scholars such as A.I. Anisimov, Yu.M. Antonian, Z.I. Belousov, N.Yu. Volyanyuk, B.M. Golovkin, V.V. Golina, V.V. Guldán, P.S. Dagel, I.M. Danshin, A.I. Dolgova, V.M. Dryomin, O.M. Juzha, V.V. Vasilevich, Yu.A. Levchenko, O.M. Litvinova, V.O. Konovalova, V.P. Konovalov, O.G. Kolb, N.V. Kulakova, A.M. Matusevich, E.M. Moiseyev, V.S. Minskaya, V.V. Papusha, V.D. Rivman, V.Ya. Rybalskaya, V.O. Tulyakova, V. Franko, G.I. Chechela, and others.

Presenting main material. In the domestic criminological literature, the concept of the mechanism of criminal behavior is described in sufficient detail. It is stated that this mechanism is a dynamic phenomenon determined by the interaction of the elements that are part of it. In general, it is defined as the person's transformation of the influence of the environment on the basis of social and genetic information, the formation of

attitudes to activities and activities, which is determined by psychological processes and prohibitions of the criminal law (*Kostenko A.N., 1986, 28c.*). The elements of the mechanism of criminal behavior are mental processes and states that are not considered in statics, but in dynamics in interaction with factors of the environment that determine this behavior.

At the same time, it has been proved by scientists that in the genesis of criminal behavior, the mechanism of victim behavior that covers the behavior of a person, a victim, a situation in which a person becomes a victim of a crime and its immediate causes occupies a separate place. It is established that no external act of a conscious act committed, including a crime, is not spontaneous, it is always prepared by a more or less prolonged period of occurrence of motives, planning of an act and taking a decision on its implementation. He always follows a series of stages of the mental activity of the subject, which consistently form the direction of the act and its actual execution. Moreover, the victim's behavior of a person is a process that unfolds both in space and in time. It consists not only of the actions that change the external environment, but also of the previous psychological processes and phenomena that determine the genesis of the wrongful act.

According to the results of our study, it has been determined that in many cases leading to a criminal offense, the most important circumstance is the behavior of the victim, namely, the perpetrator and the victim of the crime, as it is paradoxical, interact, and sometimes communicate directly for a long period of time. The victim of crime thus makes a significant contribution to the attack against her. In addition, the interaction of the offender and the victim under certain circumstances leads to mutual encounters, before the inversion of the status of "offender", "victim", to combining in one person two social and criminological, and sometimes criminal procedural roles, opposite to each other ("criminal - victim", "defendant - victim"). This contributes to the emergence of a situation that greatly raises the problem of the victim from the crime, his fault and responsibility, the problem of the consequences of the implementation of potential victimization.

In our view, the nature and consequences of forming a person play a major role in the genesis of victim behavior. We believe that neither the biological qualities of an individual, nor the short-term, and sometimes the occasional influence of the external situation, but the entire life course of the individual determines the content of most of his actions. Moreover, the social and psychological qualities of the person: her political, moral and other views, skills and habits, features of behavior and character - are formed throughout the life of the individual, as a result of interaction with the environment.

In science, the well-known conclusion is that the mechanism of individual criminal behavior includes three main blocks: 1) the motivation of the crime; 2) planning of criminal acts; 3) execution of crimes and the occurrence of socially dangerous consequences. In this case, the third block describes the crime as an external act of socially dangerous and unlawful behavior.

In addition, it has been proved that the person and behavior of the victim play an independent role in the mechanism of causes and conditions, they can not be confused and identified with other components of the situation. In this case, each of the main blocks is an entity that includes a variety of mental states and processes, the influence of the environment, the adoption of human decisions and feedback. Proceeding from this, the definition of individual victim behavior requires an analysis of all the elements, the

interaction between which forms this criminal behavior (*Moiseyev E.M., Dzhuzha O. M., Vasilevich B. B., 2006, p. 105*).

We believe that the motivation of individual victim behavior is related to the objective conditions of the social environment, it reflects the past, present and future of those social situations in which the individual acts, the organic connection of the subject with the conditions of his personality and objective public relations, with the dominant in society and social group, and with the relevant person's views, value orientations, as well as social assessments of behavior, incentives and sanctions of social control. Outside the society there is no personality, social behavior, there is no motivation for it. The external environment does not directly affect the motivation of individual victim behavior, but is reflected through internal conditions - the person's mental features, her views and settings, needs and value orientations (which were formed under the influence of external conditions).

As investigative and judicial practice shows, the basis of the motivation of individual victim behavior is human needs. At the same time, human needs reflect its dependence on the outside world. They are aimed at increasing the level of human adaptation to the physical and social environment. In this regard, the human needs are the initial motive for her activity: thanks to them, she acts as an active, active being (*Antonyan Yu. M., Borodin SV, 1987, pp. 54-55*).

If we consider the mechanism of individual victim behavior according to the scheme - needs, plans, inclinations, then it is possible to determine the system of value orientations of the person who, in turn, stimulate the motives of the past, and establish an anti-social line of conduct. At the same time, value orientations are assimilated by man in various social groups in which she is staying, working, studying, spending leisure time. In addition, the assimilation of these orientations is closely linked with the degree of adaptability of the individual to the way of life, habits, needs of these groups.

The basis of individual victim behavior that violates the established legal norms lies in a different system of values and rules, which is enshrined in legal and moral norms. In accordance with this provision, scientists determine the specific feature of the victim of the crime anti-social installation (*Nezhurbida S.I., 2013, p. 210*). In particular, Juzha O. M. and Moiseyev E.M. believes that victimal behavior can be negligent, risky, provocative, objectively dangerous for the victim himself, which may contribute to the creation of a criminal situation, and in some cases, to commit a crime (*Juzha O.M., Moiseyev E.M., 1994, pp. 27-28*). At the same time, as proved in this study, this is not a fatal property of a person. In general, the degree of victimization of any person can be reduced to zero. It all depends on whether the person chooses the most optimal variant of behavior, in order not to create a victimogenic situation.

Based on the results obtained in the course of this study, the nature of victim behavior can be:

- Conflict when the victim creates a conflict situation or takes an active part in the conflict that has arisen (initiates a fight or fights on one side). Special types of such behavior are the necessary defense, arrest of the offender, human rights activism;
- provocative (demonstration of wealth, extravagance appearance, incorrect behavior of a woman, creating an idea of its availability, etc.);
- frivolous (trust and naivety of minors and other persons who can not resist the attacker, creating emergency situations on the paths by pedestrians and drivers, etc.) (*Zelinsky A.F., 2000, pp. 82-83*).

Within the limits of a criminal situation, the victim's behavior can be defined as:

1) a negative one that provokes a crime or creates an objectively favorable situation for him (forms of provocation are different: from physical or mental violence against the perpetrator or his relatives to their offense, manifestations of disrespect for public order and generally accepted norms of morality);

2) positive, expressed in counteracting the offender, the fulfillment of public duty, etc.;

3) Neutral, which did not contribute to the crime (*Burlakova V.N., Kropacheva N.M., 2003, p. 157*).

The mechanism of group victim behavior is the interaction as external factors of objective reality, and internal process and state, leading to a decision to commit a crime. The mechanism is characterized by a change in the personality of the influence of the external environment on the basis of social and genetic information, the formation of the attitude to the activity and activity, which is determined by the psychological processes and prohibited by the criminal law (*Moiseyev E.M., Dzhuzha O.M., Vasilevich B.B., 2006, p. 111*)

The behavior of a criminal offense generates a relationship between criminals and victims. Y. A. Janbarov distinguishes three types of relations between criminals and victims: random, uncertain, predetermined.

Random - this is the relationship between criminals and victims, which arise involuntarily and do not depend on the will and desire of any of the participants in criminal drama. In casual relationships, the victim's behavior, as a rule, plays a neutral role in the genesis of the crime, and in the actions of the offender there is no direct intention to achieve this unlawful consequence. This type of relationship is often observed in crimes committed by negligence. Usually there is no relationship or connection between a criminal and a victim in a criminal situation, often they are not even familiar with each other. But even in the presence of any relationships or connections, they are not directly related to a particular crime in this case and they do not affect the victim's behavior or actions of the offender.

Uncertainties - the relationship between the perpetrator and his victim, which consists solely of the initiator of the offender in the passive role of the victim in the genesis of a particular crime. The appearance of such relationships is characterized by the choice of the offender of his victim and the relative short-term course of their course. In this case, the objective factors related to the victim's person, his position, behavior, as well as the existence of conditions that reduce the likelihood of the resignation of the latter, are encouraging the commission of the crime.

Fulfilled - the relationship between a criminal and a victim of a crime based on personal qualities, peculiarities of behavior and living conditions or other circumstances associated with the victim's person. If in an uncertain relationship a potential offender, according to his anti-social organization, usually chooses a suitable victim, then under predetermined relationships the offender does not consider it necessary to choose a victim, his aggressive reaction is directed against the person. The conditioned relations are characterized by the relative duration of existence, from the moment of the birth of the criminal plan of the unlawful act to its realization, and also by those which are usually based on the stable ties between the offender and the victim (*Janbarov Yu.A., 2005, p. 54*).

We believe that these relations are very important in the victimological characteristic of the mechanism of the crime, therefore, it is necessary to determine the

place of circumstances belonging to the person and behavior of the victim, their relationship "person - the situation - the act", or conditionally create a certain triangle "the offender - a conflict situation - victim", each element of which interacts and is interdependent from one another. This is necessary for the disclosure of the mechanism of individual victim behavior. In particular, the connection "victim-offender" arises as a result of the development of a criminal incident and the actions of the person who committed the crime, its interaction with the victim of the attack. Relationships and relationships of the future victim and future offender become legal since the commission of the crime or immediately after it. The act of a criminal encroachment turns the connection of these individuals, which had a personal, everyday character, on a criminal connection. In cases where the perpetrator and the victim did not meet the crime, they were not familiar, the basis of the development of communication lies only the fact of committing a crime (*Kushhov R.X., 2007, p. 82*).

In addition, it should be noted that the communication "victim - the offender" is not monotonous, but characterized by various types of features, depending on what and distinguish between different types of communication between the perpetrator and his victim. Thus, domestic criminologists, above all, focus on objective and subjective ties between the perpetrator and the victim. An objective connection exists between victims and offenders, regardless of whether they are familiar with each other or not. They are united by the time and place of the crime. In some cases, criminal encounters, the objective connection between different strangers transforms them into co-dependents (potential or real) and often causes their behavior and joint actions (*Dzhuzha O.M., Vasilevich V.V., Kolb O.G., 2009*); (*Golina V.V., Golovin B.M., Valuska M.Yu., 2014*).

The subjective link "offender-victim" is available provided that they know each other. The link "victim-victim" in victimology is considered not only as a relation, but also as a long event that exists in a certain space and time, the content of which determines the behavior of the victim, their interaction with the perpetrators before, during, and sometimes after committing crime. The connection between "victim and victim" can also be considered as a definite condition in which the perpetrator and the victim get "together" simultaneously or in turn (*Ivanov Yu.F., Dzhuzha O.M., 2006, p. 106*).

Detailing the subjective connection between the victim and the offender, - as noted by L.V. Frank should be multilevel, the finest transitional boundaries should be specified (*Frank L.V., 1977, p. 95*).

D. Mayers defined the conflict as a perceived incompatibility of actions and goals that involved interpersonal and intergroup conflicts (*Myers D., 2004, p. 328*). In this statement, for the right understanding of the conflict, attention is focused on the term "perceived incompatibility", since the conflict is considered as a state of the parties that perceive the goals, interests, motives and behavior of each other as mutually exclusive factors. Public practice shows, in particular, that in certain conflict situations, the "win" of one side can be perceived as a "defeat" of the other party. Sometimes perception and evaluation can not only correspond to reality, but also be partly or completely distorted both under the influence of a personal disposition (a complex of biological-psychological features) and under the influence of external factors. But objectively, regardless of ratings, goals, motives may be partially or completely incompatible or completely compatible. In any case, conflict can not be ruled out at all.

Each person has its own threshold, which divides its altruistic ideas of world perception from selfish conflict. Given that each person is a person who possesses a

certain but in each case a different set of biologically predetermined and socially determined properties and qualities, it can be argued that different people will perceive the same situation in different ways. All of this may depend on the state of the person, his education, beliefs and experience (*Kondratiuk L.V., 2001, p. 116*).

Consequently, it should be noted that the victimological sense of crime is the same conflict, because it occurs between individuals because of the incompatibility of their positions, interests and views. In this case, the concept of incompatibility concerns the good, covering both individual and general social positions, interests and views - the right of a person to normal and safe existence in society. In case of committing a crime, one person (criminal) by his actions (inaction) violates the established procedure of relations between people in society by harming the legal rights and interests of another person (victim), who must morally, physically, psychologically or otherwise counteract the offender for the protection of his own rights and interests. It is precisely at the time of this clash and there is a conflict. The moment of unilateral actions of a criminal can not be called a conflict (a conflict situation), since the reaction of the victim in encroachment on its benefits has the same value as the actions of the offender. Without a victim and her reaction to unlawful acts, there will be no crime at all.

As a result of our study, it was determined that the problem of the relationship between a potential offender and a potential victim is directly related to the issue of so-called guilty victim. Since the pretext of many specific crimes is wrong, the negative behavior of the victims themselves, which is why the victim's guilt must be considered in the emergence and development of such delusions.

As the analysis of scientific sources showed, V.O. Tulyakov investigated in a sufficiently detailed manner the victims of the crime. (*Tulyakov V.O, 2001*). According to him, guilt is not only a legal concept, but also a socio-psychological category that has a moral significance. That is why the task of victimology is to develop the criteria of the victim's fault in relation to the fault of the person who committed the crime, within their shared responsibility to the society, other citizens and themselves. In addition, victimology should also be concerned with the legitimacy of resistance to criminal offenses, including self-defense, self-help and self-control, since the nature of counteracting the offender shows how and in what way the victim resisted him (*Gilyazev F. G., 1991*); (*Savchenko A.V., 2002*).

In our opinion, when investigating the triangle "criminal - conflict situation - victim" it is appropriate to give a three-dimensional basis for modeling the mechanism of criminal behavior (defining the interaction of the offender and the victim) proposed by V.O. Tulyakovym:

1) material (occurs when the materialization of a certain intention of the offender, through the definition of purpose, motives, methods of committing an act);

2) energy (one can observe when considering a conflict with a sociopsychological position: as soon as one person (the perpetrator) perceives the situation as incompatible (conflict), the perception of another (the victim) becomes mirror image of the same type, that is, feeling the growth of a negative energy level, it feels in danger) (*Tulyakov V.O., 2000, p.149*);

3) informational (it is to try to understand the potential victim as it is possible to secure himself. At this time, the offender, in order to achieve his own goal, realizing that the victim correctly perceived his intentions, applies active actions) (*Tulyakov V.O., 2000, pp. 176*)

Yu. V. Chufarovskiy offers another idea concerning the mechanism of criminal behavior, based on the motivation of the individual. So, when doing certain actions, the person mentally creates their model. Preparation of a criminal act in the consciousness of the person (his motivation) forms the first stage, which consists of awareness of the motive and purpose of the act, the struggle of motives and the decision to commit certain actions. Incitement by themselves can not be the source of the act. To become such a source, they must be understood by the person as motives. Only after this awareness the psychic energy of induction becomes volitional energy, which generates certain actions. In this case, the motive is the "engine" of behavior and actively stimulates the volitional activity of the individual. At the preparatory stage, the motive and purpose form decisions and generate the will of the individual. At the stage of committing a crime, they determine the composition of the already formed will of the individual, speaking of its meaningful side (*Chufarovskiy Yu.V., 1997, p. 277*).

Based on the analysis of these scientific approaches, one can admit that in any case, the commission of certain actions requires from the person the use of motivational, volitional and intellectual activity. Moreover, in the normal existence of social relations, this activity will be in accordance with the laws of nature, and when committing the same criminal acts that are aimed at satisfying their own needs by violating the established order of functioning of relations between people in society, the laws of nature will also be violated.

At the doctrinal and practical levels it has been proved that the perpetrator and victim influence one another. In this case, the forms and degree of this influence are quite diverse. Moreover, this influence is exercised not only at the time of the commission of the crime, but also in a criminal situation.

That is why, when considering the mechanism of criminal behavior, it is more appropriate to apply the scheme proposed by O. M. Kostenko, according to which the process of causing and determining the criminal act consists of four stages:

And - under the influence of the causes of crime in a person formed a complex of arbitrariness and illusions;

II - under the influence of a complex of arbitrariness and illusions, the person chooses exactly the criminal way to satisfy their needs, as a result of which she has a motive that prompts a criminal act;

III - Under the influence of a complex of arbitrariness and illusions, the person sets himself the goal - to create in a criminal way such situation, which is necessary for the satisfaction of its needs;

IV - under the influence of a criminal motive and a criminal object, a person, in the presence of certain conditions conducive to the manifestation of a complex of arbitrariness and illusions, makes a crime (*Kostenko O.M., 2008, p. 62*).

Conclusion study. Having studied the peculiarities of the behavior of convicted persons as victims in the mechanism of the crime, we note the following: first, one of the important reasons for differentiating the types of connections is the nature of social contacts that existed before the completion of the crime between the perpetrator and the victim. We believe that, depending on the time of occurrence, the connection is divided into: 1) the one formed before the crime; 2) the one that arises in the course of a criminal offense. By the nature of the interaction of the victim and the offender in the commission of a crime, the connection may be direct or indirect. Under the circumstances of education, the connection is divided into: 1) developed as a result of

certain relationships that existed between the perpetrator and his victim before committing a crime; 2) formed as a result of an acutely conflict situation directly before or at the time of the commission of the crime; 3) formed in the absence of any conflicting relationships between the victim and the offender in committing the crime.

Secondly, it has been proved to us that the choice system for the victim's offender is influenced not only by various factors but also by certain preconditions for the relationship between the perpetrator and his victim. It is the presence of victimological preconditions that explains the increased ability of one person to become a victim of a crime, to be more "attractive" to the perpetrator than another person who is not under the influence of such preconditions.

Thirdly, the position of a potential victim of a criminal intention, a way of life, and especially its behavior in combination with victimological situations and preconditions of interaction with a potential offender can promote the birth in the mind of a person of a criminal intention, to stimulate its anti-social setting, to choose the method of committing a crime. At the same time, the behavior of a possible victim sometimes weakens the criminal reaction of a potential offender, causes his sympathy, fear, and so on. Moreover, in each case, it depends on the conditions, place, time, and other circumstances of the formation and development of the relationship between the perpetrator and his victim, as well as the personal qualities of a potential victim, which has a significant impact on both the nature of his individual actions and on behavior in general.

Fourthly, the impact on the probable offender should be directed not abstractly, but taking into account the "paired" categories from the criminological situation to the offender and from him to the victim of the criminal offense and further to the postvictious impact, the re-socialization and rehabilitation of the potential victim. The diagnostics of the situation and the victimological forecasting and programming of the victimological precautionary mechanism should also be carried out here.

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