



UDC 343.9.01

VICTIMOLOGY: CONCEPT AND ITS TYPES

Roman MYGAL,

Postgraduate Student of the Faculty of Law
of Lviv University of Business and Law

SUMMARY

This article examines the historical development of the concept of victimology. Victimology is a part of legal science and is considered in the criminological aspect, in criminal law, as well as in general theory.

Key words: victimology, criminal and criminological victimology.

ВИКТИМОЛОГИЯ: ПОНЯТИЕ И ЕЕ ВИДЫ

Роман МИГАЛЬ,

аспирант юридического факультета
Львовского университета бизнеса и права

В данной статье исследуется историческое развитие понятия виктимологии. Виктимология – это часть юридической науки, и рассматривается она в криминологическом аспекте, в уголовном праве, а также в общей теории.

Ключевые слова: виктимология, уголовная и криминологическая виктимология.

The purpose of the article. To explore the concept of victimology and its species.

Presenting main material. In recent years, in the criminological literature, the problem of studying the behavior of victims in committing specific crimes is more acute. This is due to a number of circumstances, and, first of all, putting forward in the hierarchy of the objectives of law enforcement activities the protection of the individual, his life, health and liberties. This is conditioned by the fact that the reason for a criminal offense and a condition facilitating his commission may sometimes be the behavior of the victim who, through his careless, and sometimes provocative illegal actions, can create a criminal situation and thus facilitate the onset of a criminal act. Therefore, when studying the mechanism of criminal behavior, along with the personality of the offender, a comprehensive and objective assessment of the victim, as one of the most important structural elements of the situation, is required. This approach allows us to develop the most effective measures to prevent crime and to more objectively determine the appropriate measures of influence.

Victimology examines the victim in terms of its moral and psychological and social characteristics that affect its vulnerability, and the situations that precede the crime, as well as the situation of the direct commission of the crime. This allows to get answers to the question: how in these situations, in the inter-

action with the behavior of the offender criminogenically-provoking, the behavior of the victim is revealed [1, p. 91].

Starting from the middle of the eighteenth century criminology studies the criminal behavior of people, and since the end of XIX century – problems of a criminal person. The victim of crime has become the object of criminological research only since the Second World War. And in the classics of law of the XVIII century. (for example, Cesare Becary, who understood the criminal act as a violation of the moral order, as well as law and order, and this violation was based, in his opinion, on his own will of the offender), and positivists of the law of the XIX century. (for example, Cesare Lombroso, Sigmund Freud) who focused on analyzing the identity of the offender. For them, the crime was a symptom of a violation of the structure of the person of the offender, which was, according to biocriminologists, imitation or quality, the theory of psychoanalysis, the result of the child's unsuccessful socialization. On the foreground there were the problems of "social protection" from criminals, their danger, as well as the issue of investigating the person of criminals, communicating with them, their rehabilitation, deterrence (intimidation), or securing public safety. The victim of the crime of classics and positivists was seen as a mechanical, static concept [2, p. 125].

Scientists-criminologists have been deeply approached to the development

of problems of victimology in the late 60's of the XX century.

Systemic research on the problem of the victim of crime was committed in 1948 by the German scientist G. Goetheg. He wrote the book "The Offender and his Victim", where he drew attention to the victim as a factor in the crime [1, p. 91–92].

Following Gentig in Bucharest in 1947, Benjamin Mendelsohn made a very impressive report ("New biopsychosocial horizons of victimology"), which drew the attention of the scientific community to the science of crime victims. But even more developed the victimology of the same Hans von Gentig, who published his book "The Offender and his Victim" in 1948. Investigation of the relationship between the perpetrator and his victim was provided in 1954 by Henry Ellenberg. «Man – he wrote – consistently becomes a criminal or a victim... If you analyze the lives of hardcore criminals, then it turns out that they were very often subjected to bullying, extortion, exploitation and were given to themselves by the childhood». In 1956, Hans Schultz introduced the notion of crime on the basis of personal relationships between the perpetrator and his victim.

In New Zealand, in 1963, the world's first law on reparation for victims of crime was adopted. After England came some US states the provinces of Canada, Australia and New Zealand.

In Austria, in 1972, a federal law on assistance to victims of crime was



adopted. In many countries, in particular in Germany, there has been an association in support of victims of crime ("White Ring").

In 1982, the United States issued a federal law on criminal-law protection of victims and witnesses of the crime. Under this law, the victim, acting as a witness in a criminal proceeding, is provided with judicial protection. Compensation for material damage by a criminal becomes an independent form of criminal sanctions. The person serving is not entitled to benefit from their crimes through the publication of information about it, as this would damage inflicted over the interests of the victim.

In 1983, the Council of Ministers of the European Council in Strasbourg adopted the European Convention on the Compensation of Victims of Violent Crimes. In this concept, the principles of compensation for damage to victims of crime by the state and international cooperation in this area in the EU member states were defined. [2, p. 126].

Victimology emerged and evolved as a trend in criminology studying the victim of a crime. However, over time, the view on it has changed, different positions have been put forward regarding the subject of victimology and its scientific status. D.V. Rovman defined them as follows: 1) victimology is a branch of criminology, or a private criminological theory, and accordingly develops within its limits; 2) victimology – it is a subsidiary to the criminal law, criminal procedure law, criminology, interdisciplinary science of the crime victim. It exists and functions in parallel with criminology; 3) victimology is the general theory, the doctrine of the victim, the subject of the study of a victim of any origin, both criminal and non-criminal. Victimology, therefore, is an independent science, whose membership to a legal one can be recognized only partially. Rather, it is a science about the safety of human life [3, p. 8].

Accumulated knowledge about the victim of crime is quite diverse. The victim (victim) of the crime is studying all the sciences of the criminal-legal cycle, and each of them does so on the basis of the substantive interests of the relevant field of knowledge.

Thus, *criminal law* examines the victim as a sign of the crime characterizing the object of criminal law, takes into

account the state and behavior of the victim in qualifying a crime, punishment of the offender, exemption from criminal liability.

The *criminal-process science* addresses the problem of the victim as a part of criminal proceedings, in connection with which he formulates the legal concept of the victim, substantiates the content of his legal status, develops a procedure for the protection of his rights and legitimate interests in the pre-trial investigation and during the trial.

In *criminalistics*, the victim's (victim) person is studied in two directions: 1) for the construction and use of forensic characteristics of various categories (types) of crimes; 2) for the development and implementation of tactics for conducting separate investigative and judicial actions [4].

Criminal enforcement law is working on improving the legislation on the protection of victims' interests during the execution of criminal penalties, in particular, establishing the obligation of the offender to reimburse the damage caused by the crime, the normative fixing of the victim's participation in the execution of punishment, the provision of personal security to those convicted in places of deprivation of liberty from the threat of encroachment on their rights from other convicts [5].

An important task of criminal victimology is education (legal education) of citizens. Studies show that many victims have a low level of legal knowledge. Most of them do not know the legal rules that protect their lives, health, property, and some who "heard something" do not know how and when to apply them in practice. In turn, one can not but note the relatively high level of legal knowledge of criminals. In this regard, legal education, legal propaganda of knowledge about how not to become a victim of a crime is necessary, especially in those conditions, when the state is not able to provide all citizens from criminal encroachments.

Criminological victimology not only really exists, but also actively develops in the system of science of criminal law. Victimological information about the determination manifestations of the victim, the conditions of his personality formation, appraisal settings, peculiarities of the psychological state is

used by the criminal process, criminalistics, operative-search activity, criminal law. Conversely, victimology is enriched with information about the victim from the criminal process, forensic science, criminal law, etc.

Among the sciences of the criminal-law cycle investigating the victim of crime, criminology occupies a central place, since victimology was initially formed in an independent scientific and applied direction precisely within the criminological theory. Criminology develops a general doctrine of the victim of a crime, forms its categorical-conceptual apparatus, recognizes the nature of group (mass) and individual victimism, investigates the process of victimization and factors affecting it, defines the role of victim behavior in the genesis of the criminal encroachment and the mechanism of committing the crime. The victimological characteristic of victims from various types of crimes, the typology of victims, scientific support of state policy in the field of protection of victims of crime, strategic directions and measures of victimological prevention, search of ways and methods of rehabilitation of victims of crimes and protection of victims from repeated damage are also within the sphere of criminological interests [6].

Consequently, criminological victimology is a system of knowledge about victims of crime, their behavior, factors influencing them, typical situations that lead to criminal encroachments, as well as measures of victimological prevention.

Currently, the concept of victimology is considered from three positions: 1) as a branch of criminology; 2) as an auxiliary for a criminal law, criminal procedure, criminology, an interdisciplinary science about a victim of a crime; 3) as a teaching on the victim, the subject of the study is the victim of the crime.

K.V. Vyshnevetsky defines victimology as a science that studies the identity of the victim of crime, the nature and content of her behavior, the moral and psychological face of the victim, the role of the victim in the mechanism of criminal behavior, and criminal victimology as a science that explores in the complex the personality and behavior of victims of criminal encroachments; their role in the crime gang; criminologically significant relationships and connections



between the victim and the offender; ways and means of reimbursement or smoothing of harm caused to a victim as a result of a criminal encroachment [7].

In turn, R. Gaphelganiyev defines criminal victimology as a complex, interdisciplinary legal branch of science that examines the problem of crime victims from the standpoint of criminal law, criminal process and criminology. In addition, the victim of a crime is a person who has actually suffered physical, moral or material damage from the illegal actions of another person. The actions of the offender are often determined not only by his aggressive motives and anti-social setting, but also by the life situation in which he acts, the personal qualities and behavior of his victim [8].

To date, in our opinion, victimology has become an independent, important applied science. D.V. Rivman does not even attribute it to jurisprudence, but recognizes the science of the safety of human life [9], since the doctrine of the victim of crime – victimology (viktima – the victim, logos – the study) – is part of a broader doctrine of victims of not only crimes, but also the consequences of accidents, natural and man-made disasters, epidemics, wars and other armed conflicts, political confrontations [10, p. 197].

In our opinion, victimology is a separate science that studies the personality in various spheres of social relations. It interacts with different branches of law. In our case, we can say that victimology studies the personality of the person who became the victim.

From the above, it follows that the subject of victimology is the person who caused the crime of physical, moral or material harm, including criminals; their behavior, which was in one way or another connected with the committed crime (including behavior after its commission); relations that linked the offender and the victim to the time of the crime; situations in which the damage occurred.

According to D.V. Rivman, victimology studies:

- Moral-psychological and social characteristics of victims of crimes (victims of crimes) to answer the question why, because of some emotional, volitional, moral qualities, socially determined orientation, the person was victim;

- Relations that connect the offender and the victim (the victim) to answer

the question to what extent these relationships are significant for creating the pre-conditions of the crime, how they affect the connection of the crime, the motives of the offender;

- Situations preceding the crime, as well as the situation of a direct crime, to answer the question, in these situations, in the interaction with the behavior of the offender criminologically significantly significant behavior (action or inactivity) of the victim (victim);

- Post-criminal behavior of the victim (victim) to answer the question of what he is doing to restore his right;

- The preventive measures system, which takes into account and uses the protective capabilities of both potential victims and actual victims.;

- Ways, opportunities, ways of compensation for damage caused by a crime, first of all, physical rehabilitation of the victim (victim) [11].

AL Sitkovsky highlights the task of victimology, the main of which is the study of the personality and behavior of the victim, the study of victimization, victimization and vitamin-related factors, which allows a new look at crime, its causes, crime prevention. As a result, there is an opportunity to better and more effectively disclose and investigate crimes, as well as to establish their complete picture, objectively assess the perpetrator's guilt based on the role of the individual and the behavior of the victim of the crime [11].

Victimology examines the role of the victim in the emergence of a criminal situation and develops the so-called victimological aspect of crime prevention, the main task of which is to minimize the criminogenic situations that are created directly by the victim. The essence of the victimological aspect of crime prevention is that it is necessary to carry out preventive work not only among potential offenders, but also among potential victims – people whose behavior, way of life, relationships, marital status and activity creates an increased risk of them being in the role of victim of a criminal offense.

As rightly observes the famous Russian scientist professor A.I. Dolgova, for a long time, law enforcement agencies were oriented unilaterally to work on crime and offender without due attention to the victim of a crime. As a result, there is still no full record of the victims, which means that their personal charac-

teristics are not being studied; victimological prevention measures are taken from case to case; in general, the victim's figure is often considered not more than the source of information about the crime and the offender, as a party (party) of the criminal procedural relationships [12, p. 374]. We fully agree with this statement because no statistics show us the number of victims of a crime.

Conclusions. From a large array of scientific developments one can derive a number of conceptual provisions of victimology:

- the central category of victimology is the "victim of crime", each crime has its own victim;

- the probability of becoming a victim of a crime depends on a special phenomenon - victimism, which is individual and group (mass);

- the value of victim may vary. The process of its increase is called victimization, reduction - de-victimization;

- the growth of the level of victimization is influenced by victimogenic factors (determinants);

- victimization is associated with latent crime;

- there is a conditional connection between the perpetrator and the victim, during the criminal interaction they can change roles;

- an important role in the mechanism of criminal behavior is played by the victim's behavior in a particular life situation;

- the victim's behavior of the victim in different ways affects the motivation and decision to commit a crime against a particular person;

- victim behavior in the mechanism of criminal behavior serves as a condition that facilitates the commission of a crime;

- reducing the risk of becoming a victim of a crime is achieved by measures of victimological prevention;

- the damage caused to the victims of the crime must be compensated, and the violated rights restored.

References:

1. Кримінологія: підручник / За заг. ред. Л.С. Сміяна, Ю.В. Нікітіна. К.: Національна академія управління, 2010. 496 с.

2. Курило В.І., Михайлов О.Є., Яра О.С. Кримінологія: Загальна частина. Курс лекцій: навчальний посібник. К.: Кондор, 2006. 192 с.



3. Ривман Д.В. Криминальная виктимология. СПб.: Питер, 2002. 304 с.

4. Криміналістика / За ред. В.Ю. Шепітька. 2-ге вид., переробл. і допов. К.: Концерн «Видавничий Дім «Ін Юре», 2004. 728 с.

5. Кримінально-виконавче право: підручник / В.В. Голіна, А.Х. Степанюк, О.В. Лисодєд та ін.; за ред. В.В. Голіни і А.Х. Степанюка. Х.: Право, 2011. 328 с.

6. Кримінологія: Загальна та Особлива частини: підручник / І.М. Данишин, В.В. Голіна, М.Ю. Валуїська та ін.; за заг. ред. В.В. Голіни. 2-ге вид. перероб. і доп. Х.: Право, 2009. 288 с.

7. Вишневецький К.В. Місце виктимологічної теорії в кримінології. Суспільство і право. 2010. № 1. С. 208–212.

8. Гаптелганієв Р. Кримінальна виктимология: поняття, види і ступінь віктимності. Світовий суддя. 2009. № 7.

9. Ривман Д.В. Криминальная виктимология: підручник для вузів. СПб., 2002. С. 93.

10. Кримінологія: підручник/под ред. В.Н. Кудрявцева і В.Є. Емінова. 3-є вид. перероб. і доп. М.: Юрист, 2007. 734 с.

11. Кримінологія: підручник для вузів / під ред. В.Д. Малкова.

12. Криминалогия: учебник / Под общ. ред. А.И. Долговой. М.: НОРМА ИНФРА-М, 1999. С. 374.

INFORMATION ABOUT THE AUTHOR

Mygal Roman Vasilyevich – Postgraduate Student of the Faculty of Law of Lviv University of Business and Law

ИНФОРМАЦИЯ ОБ АВТОРЕ

Мигаль Роман Васильевич – аспирант юридического факультета Львовского университета бизнеса и права

kovalmr@ukr.net

УДК 343.98

К ВОПРОСУ О КОРРЕЛЯЦИИ ПОНЯТИЙ КРИМИНАЛИСТИЧЕСКОЙ ТАКТИКИ И ТЕХНОЛОГИИ

Юрий МИРОШНИЧЕНКО,

кандидат юридических наук, председатель Ильичевского районного суда города Мариуполя Донецкой области

АННОТАЦИЯ

В результате проведенного исследования автор приходит к выводу о том, что термин «технология» должен использоваться в криминалистическом обороте в его узкотехническом смысле. Распространение понятия «технология» на весь предмет криминалистики или расширение его до уровня частной криминалистической теории является неоправданным. При решении вопроса о соотношении понятий «тактика» и «технология» следует исходить из понимания того, что технологичность – одно из множества свойств теории и практики криминалистической тактики, как и в целом науки криминалистики и криминалистической деятельности, различные направления которой могут быть более или менее технологичны.

Ключевые слова: криминалистика, тактика, технология.

TO THE QUESTION ON CORRELATION OF CONCEPTS OF CRIMINALISTIC TACTICS AND TECHNOLOGY

Yuriy MIROSHNICHENKO,

PhD in Law, Chairman of the Illichivsk District Court Mariupol, Donetsk region

SUMMARY

As a result of the study, the author comes to the conclusion that the term “technology” should be used in criminalistic science in its narrow technical sense. The author considers the spread of the concept of “technology” throughout the subject of criminalistics or its expansion to the level of a private criminalistic theory unnecessarily. When deciding on the relationship between the concepts of “tactics” and “technology”, the author believes that one should proceed from the understanding that manufacturability is one of the many properties of the theory and practice of criminalistic tactics, as well as in the whole of the of criminalistic science and criminalistic activities, as may be more or less technological.

Key words: criminalistics, tactics, technology.

Постановка проблемы. Теория оказывается необходимой там и тогда, где и когда возникают научные проблемы, способные стимулировать познавательную деятельность [1]. Начиная изложение результатов исследования по заявленной теме словами профессора А.А. Эксархопуло, сформулируем несколько, навешанных цитируемой работой известного криминалиста установочных вопросов, которые позволят получить общее представление о сущности проблемы, вынесенной в заголовок статьи, а также очертить круг исследовательских задач, определяемых необходимостью поиска ответа на поставленные вопросы. Среди них следующие: появление каких эмпирических или научных фактов вызвало

к жизни идею криминалистической технологии; что концептуально нового она привносит в теорию криминалистики; неужели накопленных криминалистической наукой знаний недостаточно для объяснения диалектических закономерностей поступательного движения процесса познания в теории и практике криминалистической деятельности; может быть, теория криминалистической технологии по-новому объясняет уже известные факты и закономерности криминальной и криминалистической деятельности, опровергая прежние представления о них?

Состояние исследования. Признанным «локомотивом» популяризации технологических начал криминалистики является В.А. Образцов,