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Názory a postoje občanů v oblasti trestní politiky

Penal policy: opinions and attitudes of citizens

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Summary

The main objective of activities of the Institute of Criminology and Social Prevention (ICSP) is to contribute to providing legal certainty of citizens, functioning of the justice system, creating quality legislation and forming punitive policy aimed at more efficient control of crime. ICSP has been continually dealing with the problems of development, expression and impacts of penal policy. The public in the general sense of the word is the primary receiver of penal policy and the evaluator of its efficiency. Therefore, penal policy should correspond with the needs of the public and be formulated in a manner understandable to the public; citizens should have enough reliable information in order to be able to understand and evaluate penal policy. The Medium-term plan of the research activities of ICSP for 2008-2011 includes a research task entitled “Penal policy and the public” for the research period 2009-2011. Based on the Medium-term plan the task concerns the survey of opinions and attitudes of the public with respect to crime, rate of punitiveness and tolerance, attitudes to sentencing and the existing legislation, and moral and legal awareness of citizens. These data are very desired in order to establish penal policy and its presentation to the public. The task is also justified by the long-term inconsistency between penal policy practice and the expectations of the public, as well as low awareness of citizens with regard to penal policy plans and measures in the Czech society.

The subject matter of the survey was the public opinion of the key aspects in penal policy. The survey was aimed at the opinions of the Czech public regarding the crime rate and trends, rate of punitiveness or tolerance among citizens, their opinions of the function and activity of the criminal justice system and its bodies, knowledge concerning the state of relevant legislation and the perceived awareness of the public with regard to these issues.

The objective of the survey was to present new and expand the existing pieces of information about the opinions and attitudes of the public to particular aspects of penal policy in the Czech Republic through a representative public opinion poll.

A public opinion poll is a specific type of sociological research, which does not

examine social phenomena, relations and procedures in the entire breadth and depth but is limited to reflecting opinions and attitudes of some population - public. The aim of the surveys is to present information about the opinions of citizens regarding various issues of social life. They also make it possible to recognise the strength of a certain opinion in the given population and the social composition of its supporters and objectors.

No social act can be noticed by mere observation; we must use tools that boost our natural capabilities. The question is how to find out what a person deems, what are his/her intentions, desires etc. Social sciences seek answers to these questions by means of a survey. However, there is a difference between the observed public opinion and actual behaviour. The problem may be in who is the respondent of the public opinion poll. When an addressed person takes part in a poll, they may not tell what they actually think in order not to admit their publicly unacceptable attitudes. Another difficulty is that some people reject to take part in the poll.

The quality of the observed results is conditioned by two factors:

- Correctly raised questions (must also be correctly interpreted)
- A well arranged group of respondents, i.e. those who answer the questions.

We shall also emphasise that the accuracy of the presented results may not always be well controlled; there are cases where there is no comparison because the results gathered by the poll are the only available.

At present the most frequently used techniques of the public opinion poll are omnibus polls and qualitative polls realised by the technique of focus groups.

If the public opinion polls are duly realised, they become the prerequisite of qualified decisions in a number of socially significant areas. Both politics and mass communication media rely on public opinion polls.

If we examine the relationship of the public to penal policy, we shall first define the term penal policy and specify the space in which the poll shall take place. Any government uses its penal policy to declare the level of protection of the fundamental rights and freedoms, which it is willing and able to realistically secure. Penal policy at the national level is concretised in substantive and procedural criminal legislation, system and arrangement of bodies and institutions ensuring enforcement of criminal standards and practical activities of these entities.

Penal policy can be distinguished in the broader and narrow conception. The broader conception of penal policy includes all activities and measures applied by legislative and executive bodies, government and non-governmental organisations and economic entities, as

well as civil activities that are focused on crime control, suppression and prevention. The narrow definition of penal policy includes primarily penal legislation and activities and measures of bodies in charge of criminal proceedings; activities of other entities are included only as far as they are directly aimed at control of crime or at criminal sphere in general. Apart from the term “penal policy”, specialised literature and practice uses the terms criminal or sanction policy. The relationship between these terms may be characterised as follows: criminal policy includes all measures against crime; penal policy includes measures that use criminal law; sanction policy is the tool to determine the purpose of punishment, system of criminal sanctions and their enforcement.

In a democratic country with rule of law, the penal policy and the public are in a continual interaction. Citizens should have enough correct information in order to have a realistic notion of the crime rate (and the related socially pathological phenomena) in the country (region, community) and of the reaction of the government bodies to it. Detraction of problems with crime can make citizens underestimate the issue of safety in everyday life, which creates opportunities to criminal activity. On the other hand, overestimating the rate and seriousness of crime leads to excessive negative manifestation of the so-called “fear of crime”, unjustified changes in behaviour of citizens, their growing dissatisfaction with the criminal justice system and the representatives of public authority in general.

Appropriate knowledge of the actual needs of citizens in the area of internal safety and public order, their true opinions of the crime and its prosecution, as well as their attitudes to various forms of socially unconformable behaviour is the indispensable prerequisite of formulation of an efficient, comprehensible and respected penal policy.

Last but not least, penal policy intentions and measures, as well as reasons for them must be comprehensibly communicated to the public. Only a clear and clearly formulated intention reflecting the actual needs of the public will find the appropriate support in the society; and to a large extent such support is decisive for the efficiency of any measure in the given area.

Foreign surveys related to opinions and attitudes of the public to penal policy and crime in general lead to an unambiguous piece of knowledge: citizens are interested in the topic, but at the same time their knowledge of it is on a very low level. This paradox is typically manifested when evaluating crime trends. Most of the public is permanently convinced of the growing rate of crime in spite of the fact that criminal statistics and crime victims surveys of the recent years in most economically developed countries confirm a decrease in crime. Similarly, people have quite unreal notions of the overall structure of

crime; they often overestimate the occurrence of violent offences (murder, bodily harm, rape etc.) and tend to underestimate the extent of offences from the area of property crime.

Criminology literature often discusses the influence of broadcast reporting in this context. Media are the source from which most citizens obtain their knowledge or awareness of crime. The space the media devote to crime has been strikingly growing in time. Media staff knows very well that the theme of crime will reliably address the audience. It is well known that the problems of crime are what people will choose among other pieces of news or information.

In view of the above it is not striking that public opinion polls continuously mark crime as a problem, which is highly worrying for citizens and is considered the key priority the society should be engaged in. The public also repeatedly expresses the opinion that the existing justice system is too lenient to offenders and the penalties are too mild. Dissatisfaction with sentences and their length persists even in countries that had previously made penal policy more severe (e.g. the USA or UK). Many citizens know nothing about these reforms and tend to underestimate the real length of sentences. Citizens often lack a deeper notion of the actual work of bodies in charge of criminal proceedings. Most people have no personal experience with particular bodies of the justice system, which might to a certain degree revise the image offered by media and often influenced by the interest of journalists in shocking cases of the failure of the entire system.

The methodology itself, which is used in public opinion polls concerning penal policy, is of considerable significance. When the interviewer asks questions on a general level, respondents show more punitive attitudes than when they are to express their view of a specifically described case. The superficial approach, which is typical for a large number of surveys, may lead to distorted conclusions in the area of evaluation of particular bodies of the justice system or the confidence of citizens in them.

We should not neglect the fact that certain dissatisfaction of the public with the work of the justice system is caused by diverse views of citizens on some principles or rules that are typical for criminal practice (respect to fundamental rights of an accused person in criminal proceedings etc.). Similarly, many citizens create their own theories on which measures to reduce crime are efficient and which are not.

The main part of the survey was an extensive original public opinion poll concerning the problems of crime and criminal justice. In order to preserve the up-to-date character of its results the output of the survey "Penal policy and the public" was divided in two parts. The first part summarises and analyses the results of the public opinion poll enriched by a brief

introduction in the problems. The second part will contain a literature study of the issues of public opinion, its relation to penal policy and approaches to its survey, and a secondary analysis of the results of the existing public opinion polls regarding penal policy in the Czech Republic, which shall enable a more comprehensive approach to interpretation of the pieces of information gathered within the realised public opinion poll.

The following survey methods and techniques were used to solve the research task:

- *Research and analysis of relevant literature* – were used especially in the introductory literature study about the issues of public opinion, its relation to penal policy and approaches to its survey;
- *Secondary analysis of the results of existing public opinion polls concerning the issues of penal policy* – it provided a summary of existing survey information regarding the examined problems in the Czech Republic;
- *Public opinion poll* – it was the main part of the research and served to obtain new information about opinions of the public with regard to particular aspects of penal policy.

For the purposes of the survey the research team developed a questionnaire that – apart from questions concerning the person of the respondent – contained 34 questions of which some were divided in two or more partial questions. The questions were divided in several (even if mutually interacting) topics:

- Crime rate and trends in the Czech Republic;
- Rate of tolerance and punitiveness;
- Role and functioning of the criminal justice system and its bodies;
- State of relevant legislation;
- Perceived awareness of the examined issues.

Prior the field stage of the survey the questionnaire was subjected to a pilot test made on a selected sample of persons in order to test its applicability and then it was modified and finalised.

The field stage of the survey was performed by Factum Invenio, s.r.o., a private company involved in public opinion polls. The survey was conducted by face-to-face questioning on a representative selective group of 1,692 respondents aged 15+ years. Respondents were selected by a quota method; the used quota marks were sex, age, education and region. The questioning took place at the turn of July and August 2009. The methodology of processing the data from the survey corresponded with the standards of SIMAR and

ESOMAR. The collected data were checked and then processed and evaluated in the statistical software SPSS. The results of the survey indicate the following information:

1. Citizens are interested in the problems of crime and criminal justice

Crime and functioning of the criminal justice system are topics that enjoy growing interest among citizens. When directly asked in the survey, almost one half of the sample said they were interested in these problems. However, active interest is only one of many indicators of its attractiveness or urgency. In order to obtain additional information, the company in charge of the field stage of the survey provided the so-called report of the course of questioning, which summarises information about the course of the field stage gathered from particular interviewers. The report suggests that in spite of the time-demanding and long nature of the questionnaire respondents were willing to answer questions and interested in the topic; the respondents often wished to know the correct answers to questions they were unsure about and expressed emotions – most often anger – about phenomena they were questioned about. The survey proved that penal policy issues are certainly not excluded from the interests of the society.

2. Citizens often fail to obtain a true image of crime and reaction of the government to it from available information

The results of the survey also indicate a seemingly surprising connection that, however, is quite frequent in foreign surveys. Respondents who – as they say – are more interested in the problems of crime have generally poorer knowledge of the actual crime rate and are more disturbed by the extent and structure of crime; however, they have rather false estimate of it (they are convinced that crime has been growing while the reverse is true, they tend to overestimate the share of violent and sexual crime and underestimate the share of property crime etc.). They either receive incorrect, distorted or incomprehensible information or their declared interest in the problems is a manifestation of the perceived urgency of the problem to which they had taken a clear (rather negative or sceptical) attitude and they have little ambition to receive additional information that might revise or refine their attitudes.

A group of respondents who declared greater interest than other citizens in the problems of crime and penal policy manifested sound knowledge of relevant legal regulations.

In any case these findings serve as a signal for relevant bodies of the criminal justice system and government as a whole (relevant central bodies of state administration) to pay higher attention to the extent and quality of information about crime and reaction of criminal justice system to crime that is provided to the public. Citizens call for this information; however, they fail to create a precise image from the information that is provided to them.

3. Citizens support more punitive attitudes

The attitudes of citizens to the severity when assessing certain types of behaviour and possible punishment (punitivity and tolerance in the public) are not extreme and can be compared to the results of similar surveys conducted in other developed countries. They may be summarised as rather more punitive with a slightly prevailing confidence in the efficiency of a severe law and tough penalties; there is also a major belief that the relevant bodies of the criminal justice system fail to take sufficiently firm measures when prosecuting crime. The criminal justice system should also be aware of the obviously growing scepticism among citizens in respect of non-custodial sentences.

4. Secondary victimisation is perceived as a problem and protection of the government against it as insufficient

The results of the survey show that the public is aware of the problems suffered by victims of crime in the form of the so-called secondary victimisation. Citizens believe that the measures of the government for protection of victims against these problems are still insufficient.

5. More obvious differences among respondents from various groups were manifested when classified by region, age and education

The most obvious differences among particular groups of respondents in all topics were when classified by regions. However, we must say that it is difficult to trace some unifying element when examining the differences based on the realised analysis. The differences are of such a nature that they certainly deserve more detailed examination, perhaps with the use of other demographic data about particular regions; such examination would exceed the purpose of this study.

Age and education were the classifying criteria where the answers indicated certain general differences. Respondents of the youngest age categories showed lower interest in and knowledge of the issue and more often they were not able (or willing) to answer questions concerning their knowledge of the issue at all, even if the question was in areas specifically related to their age group (age limit of criminal liability, existence of a juvenile justice system). On the other hand, the oldest age categories of citizens expressed more serious dissatisfaction with procedures of relevant bodies in respect of crime and supported more punitive attitudes. Respondents with higher education – as expected – proved better knowledge of the issue and in some respects they manifested less punitive attitudes (higher support for non-custodial sanctions, higher acceptance of the possibility of conditional release).

Measures to control crime have always run up against the problem of limited available funds and now this problem becomes even more serious. There must be a careful choice of approaches and interventions in the area, because incorrect, groundless or unprepared decisions will become ever more costly. In relation to citizens the government in general should know (not just in the case of penal policy, but any policy) what the citizens see to be major problems, seek suitable solutions of such problems and be able to comprehensibly and in sufficient extent explain the chosen approach. Support of the public is an important – even if not the only one – prerequisite of smooth introduction of efficient measures to control crime.

Translated by: I.T.C. Jan Žižka s.r.o.