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STATUS OF SCIENTIFIC DEVELOPMENT OF THE ISSUE OF CRIME CONTROL UNDER CRIMINAL LAW IN UKRAINE FROM 1922 TO 1960

Abstract. Purpose. The purpose of the article is to study the status of scientific development of the issue of crime control under criminal law in Ukraine in 1922-1960. **Results.** It is underlined that research in criminology focuses on quantitative and qualitative indicators of crime. The latter are determined by the level, structure, dynamics, coefficient, enabling a comprehensive analysis of crime over a certain period and in a certain territory. However, some scientists understand the status of crime solely as a quantitative indicator of the number of crimes with a determination of the number of perpetrators in a certain territory for a specified period. Some aspects of the criminal environment in the former USSR were examined by scholars who studied criminal subculture and prison subculture. This topic was covered both in scientific and in publicist works. Part of materials for the study was provided by law enforcement officers who had experience in countering criminals, communicated with them in places of deprivation of liberty, knew the features of the formation of subculture even in individual places of deprivation of liberty. Understanding the trends in the criminal subculture development enables to better reveal the motivations of its members, to identify their regional characteristics. Many people who have committed crimes have no connection to a criminal subculture. Therefore, the approach to crime as a feature of a special “sub-cultural community” does not fully reflect the realities of life. It is revealed that a significant part of experts in criminology consider the status of crime not only as quantitative, but also as a qualitative characteristic of it, determined by the level, structure, dynamics, coefficient, enabling a comprehensive analysis of crime over a certain period and in a certain territory. However, some scientists consider the status of crime solely as a quantitative indicator of the number of crimes with a determination of the number of perpetrators in a certain territory for a specified period. **Conclusions.** It is concluded that the strategy of the study of crime control under criminal law in Ukraine is the integration of historical experience with modern innovative approaches to the improvement of crime control under criminal law as a necessary condition for increasing its effectiveness.

Key words: methods, formation, legal awareness, population, criminal acts, socialisation.

1. Introduction

Historical and legal analysis of crime control under criminal law in Ukraine in 1922-1960 requires a review of the historiographical situation in Soviet legal science in the study of crime prevention in general, since scientific analysis of issues related to the history, theory and methodology of countering crime were either ideologically dependent or played a subordinate, auxiliary or secondary role in substantiating the official State position in this field. For example, the first scientific steps in the study of the process of crime control under criminal law in Ukraine were taken by researchers, who for some time worked in law enforcement bodies and had experience and materials for gen-

eralised conclusions. However, Soviet criminal law theory was also involved in the creation of artificial crime, offering from time to time more severe sanctions “to strengthen the fight” against it. The specificity of the study of crime control under criminal law was determined by the ruling party’s policy on the conduct of criminological research: while during the 1920s scientists conducted searches in this field, during the 1930s - the first half of the 1950s, such studios were banned and data on the number of crimes committed were classified.

Issues that are important both in theoretical and practical aspects for understanding the crime control process were elucidated in the works by O.M. Bandurka, Y.A. Helfand,

L.M. Davydenko, A.I. Dolhova, A.P. Zakaliuk, A.F. Zelenskyi, O.M. Lytvak, P.P. Mykhailenko, and V.M. Popovych. The role and importance of the scientific heritage of Ukrainian and foreign scientists, their proposals and recommendations on the organisation of effective crime prevention are of high value, but it should be noted that the problem of historical and legal analysis of crime control under criminal law in Ukraine in 1922-1960 has not yet been under a comprehensive study.

That is why the purpose of the article is to study the status of scientific development of the issue of crime control under criminal law in Ukraine in 1922-1960.

2. Control status of juvenile delinquency in 1922 - 1960

In the 1920s, in order to obtain information and analyse the dynamics of criminal manifestations in the USSR, a department "Moral statistic" was created, which was subordinate to the Central Statistical Office. Statistical data were received and systematised at both the Republican and Union level. The problem of the relevant statistics remained both the incomplete sample, due to the relatively low level of expertise in the field, and the tendency of individual officials in the regions to report on their successful professional activity in the field of crime control, has not been able to find any evidence of professional success in the area of crime control, which often led to overestimation, related to the characterisation of criminal manifestations in smuggling, robbery attacks. For example, in 1923, on the initiative of a member of the Presidium of the Moscow City Council, V. Orleanskyi, a large-scale study of arrest buildings was carried out with a view to further scientific research, and a Cabinet for the study of the offender and crime was founded. The establishment of a similar Cabinet in Ukraine in 1924 was initiated by employees of the Odessa provincial corrective labour institution.

Some issues related to the spread of crime were researched by B. Utevskyi, M. Hernet and M. Polianskyi, who tried to characterise the personality of the criminal in Soviet society and determine the reasons for its criminalisation during the 1920s. P. Mamot studied the specifics of committing economic crimes in the years of NEP, as well as identified the main problems related to the detection of this type of crime [4]. The author noted a sharp increase in the number of economic crimes during the implementation of the new economic policy. Criticising the mismanagement that contributed to the spread of theft, he simultaneously focused on problems in the distribution of finished goods, which caused a shortage of and, accord-

ingly, abuse of domestic services to the population and the provision of goods to them.

V. Kufaiev, P. Lublinskyi, S. Kopelianska studied the process of control of juvenile crime and the circumstances that contributed to involvement in criminal activity. Their research emphasised the detrimental impact of the war on the spread of neglect which led to so-called street education for some children and adolescents, often accompanied by the use of knives, fights for socialisation.

Soviet researchers during the 1920s paid a lot of attention to the analysis of criminal and corrective labour legislation (Isaev, 1927). This interest was due not only to the popularisation of the relevant findings, but also to the need to improve the qualification level of the staff of the courts and law enforcement agencies, many of them had relatively little professional experience. At the same time, much attention was paid to substantiating the need to completely dismantle the legal field that existed during the Russian Empire. As a result, the positive experience of crime control, especially the impact of non-custodial sentences on crime, was overlooked by researchers. Soviet researchers avoided the experience of countering criminality on the part of gendarmes, associating them primarily with the "stranglers" of the revolutionary movement. However, the experience of the law enforcement bodies of the Russian Empire in crime control could be an example in many cases for the Bolsheviks, who primarily preferred the power methods of counteracting and criminalising acts, seeing more and more threats to the existence of the Soviet State.

The collection of scientific works *Hooliganism and hooligans*, published in 1929, covered social and everyday conditions, which, according to the authors, contributed to the spread of hooliganism. The motives for the commission of crimes by women involved in serious disturbance of public order were investigated. In addition, the most effective methods of countering the spread of hooliganism were analysed (Anisimkov, 1998).

In the 1920s, Soviet scientists did not avoid covering the problem of the spread of drunkenness, pointed to its close connection with crime. Studies by R. Vlassak, D. Voronov, A. Hertsenzon, E. Deichmann, A. Rappoport, Yu. Larina, D. Shepilov analysed some causes of the spread of alcoholism, which were mainly associated with the remnants of capitalism. It was believed that drunkenness could be overcome through comprehensive measures, from re-education to criminal punishment. The problem of Soviet researchers was the virtual impossibility to analyse the conditions of intoxication among judicial and law enforcement officials.

In 1969, the work *Fight against crime and offenses* was published by the employees of the Academy of Sciences of the Ukrainian SSR. The book was prepared on the basis of a study of numerous materials of prosecutors and investigators' judicial practice, as well as the activities of social organisations in the field of crime control. It studies the main areas of prosecutors' supervision and shows the most effective, in the authors' opinion, forms of crime control. The direct results of the sociological study of juvenile delinquency in the cities of Chernivtsi and Donetsk (Lanovenko, 1969) are presented.

Among the Soviet researchers it is necessary to mention the work *Criminal-legal fight against hooliganism* by V.A. Kuznetsov, I.A. Lanovenko, F.A. Lopushanskyi and V.V. Leonenko, where, relying on sociological research, analysis of the legislation in force at that time and its application, it was an attempt to review the positive experience of the work of State bodies and public organisations of the Ukrainian SSR in countering the spread of hooliganism; to determine the main areas of work to prevent its manifestations. The book focuses on the criminological characterisation of hooliganism, analysis of the elements of the crime provided for in article 260 of the Criminal Code of the Ukrainian SSR and its separation from other crimes, the effectiveness of the investigative and judicial authorities in the investigation and judicial consideration of cases of this category. The researchers identified the most typical flaws in the organisation of counter-hooliganism and made some recommendations to improve preventive work in this area (Lopushanskyi, 1971).

Research in criminology focuses on quantitative and qualitative indicators of crime. The latter are determined by the level, structure, dynamics, coefficient, enabling a comprehensive analysis of crime over a certain period and in a certain territory. (Sokolov, 1973). However, some scientists understand the status of crime solely as a quantitative indicator of the number of crimes with a determination of the number of perpetrators in a certain territory for a specified period (Karpec, 1976). For example, the author of the work *Drunkenness and crime: History, problems* (Lanovenko, Svetlov, Skibickij, 1989) in the trend of anti-alcoholic propaganda during the "perestroika" traced the link between drunkenness and the spread of crime, including among young people. The researchers also tried to determine the relationship between the amount of alcohol consumed by the population and the number of crimes. Relying on the analysis of statistical indicators, they determined the State's measures against the spread of drunkenness.

A number of works by Ukrainian Diaspora researchers have also focused on the coverage and analysis of political decision-making mechanisms, including crime control (Nahaievskiy, 1994). In addition, they covered various issues related to the spread of Bolshevik terror, analysed the legal mechanism created by the Moscow occupier, for the forceful conquest and retention of power in Ukraine (Kurskij, 1958). The work by I. Mazepa, which underline the criminal essence of the Bolshevik regime, stemming from its attitude towards political opponents and the class approach to the interpretation of crime (Mazepa, 1922), deserves special attention.

Noteworthy are the memoirs in which the direct participants of those events depict the situation on the territory of Ukraine, including characterising individual types of crimes and giving their thoughts on their prevalence and causes (Martynov, 1923). This aspect of the information is also presented regionally: regarding the events in Odessa, Podillia, Yekaterinoslav, Kharkiv regions. The works highlight the conditions that preceded the adoption of the Criminal Code of 1922, with individual judgments on how to counteract criminal manifestations. At the same time, a significant part of such judgments related to countering the so-called counter-revolutionary crimes and provided detailed descriptions of the "criminal" behaviour of political opponents in the context of the spread of Red and White Terror (Abolin, 1922).

3. Features of the marginalisation of Soviet society in 1922-1960.

To study the crime control process from 1922 to 1960 it is important to highlight the impact of the marginalisation of Soviet society in the context of its de-ethnisation, as well as the large-scale population movements that have entailed the socialisation of individuals in new conditions in a new place of work. For example, Professor L. Shelley, an American researcher of crime in the post-Soviet countries, believes that the lack of unity in criminology became particularly noticeable with the beginning of globalisation in the 1990s (Dremin, 2009). Large-scale population movements within a country, region or continent, dictated by the need to carry out economic activities, as well as the new "social steps" in this regard, affected not only perceptions of the essence of crime, methods of counteracting it and characterising the personality of the offender, but also identifying the links between the socialisation of the individual and the possibility of his or her committing unlawful acts. In this regard, marginality has moved beyond cultural conflict to be seen as a product of social mobility.

These issues were under the focus in the works by I. Krauss, V. Mancini, T. Wittermans, T. Shibutani, E. Hughes. Voluntary renunciation of traditional society, problems of marginalised political consciousness, exclusion of individuals and social groups from the system of social relations, are reflected in the works by Western European researchers L. Vaskovich, J. Levy-Strenge, S. Raban, P. Rosenvallon. Problems of marginality were also investigated by Russian scientists A. Antonian, A. Galkin, V. Radaev, E. Rashkovskiy, E. Starykov, V. Shapynskiy.

The link between the new conditions of socialisation of a part of Soviet society and the dynamics of crime was highlighted in the scientific publications, whose authors sought to comprehend the causes and nature of crime in the Soviet State. Many criminological studies focused on crime (Kudrjavcev, 1968), concepts of an offence and crime. In addition, during the Soviet period, much was done to characterise the identity of the offender with a view to developing ways of controlling crime under criminal law (Kostenko, 1990).

With the break-up of the Soviet Union and the creation of independent States, new and much more critical works of both theoretical and practical importance for understanding the process of crime control were presented. These are works by Yu. M. Antonian, A. M. Bandurka and L. M. Davydenko, A. I. Dolhova, A. F. Zelinskyi, O. M. Lytvak, V. V. Lunieiev, V. M. Popovych. It should be noted that most of these studies were theoretical and philosophical and aimed at understanding the worldview of the criminal world and the circumstances that led citizens to commit crimes (Bachinin, 1999).

At the theoretical level, the scientific heritage of A. M. Lytvak is worth noting, because of solid results of careful analysis of the different vectors of influence of State power on the status and dynamics of crime. In his view, the State fulfils its historic role in the protection of law and order and the crime control by means of legislation, in particular criminal law, by punishing offenders and by means of specific criminological prevention. However, State authority and the laws it creates have a criminogenic impact on society. According to the researcher, the task of civil society is to control the criminogenic influence of the State to be within the law. State crime control should be a form of social control. Non-State social control is alternative. The harmonious relationship between them is a prerequisite for keeping crime at a relatively low level. The conclusion of A. M. Lytvak is quite balanced, because when State control dominates the country, there is a danger of so-called non-criminalised crime

of the political elite. Such a statement was especially relevant for the Soviet period, when in essence the criminal actions of some members of the Soviet political elite, including repressive activities, were considered as "successes in the class struggle".

Some aspects of the crime control process were covered by scientists who studied the activities of law enforcement bodies, Soviet special services and their role in the development of mass repression (Nikolskij, 2001).

The spread of crime in the NPA period was studied by A. Myronenko and O. Benko, M. Grinberg, B. Lytvak, T. Pryvalova, who, using a number of modern methods of interdisciplinary research, showed the influence of the Soviet transformations on the formation of the legal awareness of the population and, accordingly, between criminal actions and individual aspects of the socialisation of the population. Moreover, researchers focused on the impact of drunkenness on the spread of criminal behaviour.

The works by M. Doroshko, M. Frolov and I. Nikolaiev reveal some aspects of the formation and functioning of the Communist nomenclature in the 1920s-1930s with the definition of some conditions of criminalisation of its representatives (Doroshko, 2004). The influence of the general situation in the totalitarian Soviet country on the formation of the personality of leaders and their legal awareness has been shown. In the post-war period this topic is presented in the studies by Ukrainian scientists P. Kyrydon, V. Ivanenko, V. Vasyliiev and Russian researcher V. Mokhov. The latter concludes that the scheme of power in the USSR was based on the principles of matrix, which led to social stratification not only in the nomenclature, but also in the whole society, enabling to understand the specificity of sentencing for the party leadership, including in the case of committing various types of crimes by its members.

Some aspects of the crime control process are covered by scientists who studied the activities of law enforcement bodies, Soviet special services and their role in the development of mass repression. It shows the destructive influence of the orientation of law enforcement towards illegal methods of investigation, instead of operational and investigative work.

The regional aspect of crime control under criminal law is presented by the studies by V. Fajtelberg-Blank and V. Shestachenko on the criminal world of Odessa in the early 1920s. The presentation of many little-known facts allows to get an idea about the specifics of the criminal world of the region and the features of law enforcement on its territory (Fajtelberg-Blank, 1999). O. Mikheieva analyses the status and dynamics of criminal crime in

the Donbas region during the 1920s (Mikheieva, 2003) underlining the features of the criminal offender and the analysis of criminal-legal combating of crime in the region. In addition, A. Mikheieva studies the structure of law enforcement bodies of the USSR during the NEP period with determination of its effectiveness.

Some aspects of the criminal environment in the former USSR were examined by scholars who studied criminal subculture and prison subculture. This topic was covered both in scientific and in publicist works. Part of materials for the study was provided by law enforcement officers who had experience in countering criminals, communicated with them in places of deprivation of liberty, knew the features of the formation of subculture even in individual places of deprivation of liberty.

Understanding the trends in the criminal subculture development enables to better reveal the motivations of its members, to identify their regional characteristics. Many people who have committed crimes have no connection to a criminal subculture. Therefore, the approach to crime as a feature of a special "sub-cultural community" does not fully reflect the realities of life (Dromin, 2006). However, the influence of this environ-

ment undoubtedly stimulates, and sometimes encourages, the individual to commit unlawful acts.

A significant part of experts in criminology considers the status of crime not only as quantitative, but also as a qualitative characteristic of it, determined by the level, structure, dynamics, coefficient, enabling a comprehensive analysis of crime over a certain period and in a certain territory (Sokolov, 1973). However, some scientists consider the status of crime solely as a quantitative indicator of the number of crimes with a determination of the number of perpetrators in a certain territory for a specified period (Karpec, 1976).

4. Conclusions

In general, the significant results of research conducted in Ukraine on the issue of combating crime form a solid basis for determining the strategy of a comprehensive study of crime control under criminal law in Ukraine. Their analysis allows concluding that the strategy of the study of crime control under criminal law in Ukraine is the integration of historical experience with modern innovative approaches to the improvement of crime control under criminal law as a necessary condition for increasing its effectiveness.

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СТАН НАУКОВОГО РОЗРОБЛЕННЯ ПРОБЛЕМИ КРИМІНАЛЬНО-ПРАВОВОГО КОНТРОЛЮ ЗА ЗЛОЧИННІСТЮ В УКРАЇНІ У 1922–1960 РР.

Анотація. Мета. Метою статті є дослідження стану наукового розроблення проблеми кримінально-правового контролю за злочинністю в Україні у 1922–1960 рр. **Результати.** Наголошено, що дослідження в кримінології присвячені переважно кількісним та якісним показникам стану злочинності. Останні визначаються рівнем, структурою, динамікою, коефіцієнтом, що забезпечують можливість здійснення комплексного аналізу злочинності за певний період часу і на певній території. Водночас частина вчених під станом злочинності розуміють виключно кількісний показник числа злочинів із визначенням кількості осіб, що їх вчинили, на певній території за окреслений період часу. Деякі аспекти існування злочинного середовища на теренах колишнього СРСР розглядалися у дослідженнях науковців, які вивчали кримінальну субкультуру та субкультуру в'язниць. Ця тематика висвітлювалася як у наукових, так і в публіцистичних творах. Частина матеріалів для аналізу була представлена працівниками правоохоронних органів, які мали досвід протидії злочинцям, спілкувалися з ними у місцях позбавлення волі, знали особливості формування субкультури навіть окремих місць позбавлення волі. Усвідомлення напрямів розвитку злочинної субкультури дозволяє поглибити розуміння мотивації вчинків її представників із визначенням їх регіональних особливостей. Багато людей, що вчинили злочини, не пов'язані із кримінальною субкультурою. Тому підхід до злочинності як властивості особливої «субкультурної спільноти» не відображає повністю життєві реалії. З'ясовано, що значна частина представників кримінології розглядає стан злочинності не тільки як кількісну, але й як якісну її характеристику, що визначається рівнем, структурою, динамікою, коефіцієнтом, які забезпечують можливість здійснення комплексного аналізу злочинності за певний період часу і на певній території. Водночас частина вчених під станом злочинності розуміють виключно кількісний вираз числа злочинів із визначенням кількості осіб, що їх вчинили, на певній території за окреслений період часу. **Висновки.** Зроблено висновок, що стратегічним напрямком дослідження кримінально-правового контролю за злочинністю в Україні є інтеграція історичного досвіду із сучасними інноваційними підходами до удосконалення кримінально-правового контролю за злочинністю як однієї з необхідних умов підвищення його ефективності.

Ключові слова: методи, формування, правосвідомість, населення, злочинні дії, соціалізація.

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