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**А.М. Соловйова**

*кандидат юридичних наук, доцент  
докторант Класичного Приватного університету*

## **ДО ПИТАННЯ ІСТОРИЧНИХ ПРОЦЕСІВ НА ТЕРИТОРІЇ УКРАЇНИ В КОНТЕКСТІ ЗЛОЧИНІВ ПРОТИ ВЛАСНОСТІ**

***Soloviova Alina***

*Candidate of Juridical Sciences, assistant professor,  
Doctoral student of Classical Private University*

## **TO THE QUESTION OF HISTORICAL PROCESSES ON THE TERRITORY OF UKRAINE IN THE CONTEXT OF CRIMES AGAINST PROPERTY**

Crimes against property have been a central concern in many societies and cultures throughout history.

Since the range of activities included– in the property crime definition is vast, the term should be viewed as a representation of offenses that describe material-based criminality in society. In other words, the focus is on crimes against property, not persons [1].

Offences relating to property are some of the most complex criminal offences, in large part due to the complex forms and uses of property itself.

The organizing center of Kievan Rus, the first great Slavic state, Kiev arose in the ninth century as a commercial hub on the trade routes connecting Europe, the Eastern Christian Empire known as Byzantium with its capital at Constantinople, the glorious Abassid Moslem empire ruled from Baghdad, and the Khazar state of the lower Volga and northern Caucasus. At its zenith in the eleventh century, Kiev was the ruling center of the largest political entity in medieval Europe and one of the world's most splendid cities. Its population for the year r 200 has been estimated at fifty thousand or more. By comparison, Paris had about fifty thousand inhabitants at that time, while London had an estimated population of thirty thousand [2].

The first known criminal rules of ancient Russ were enshrined in the treaties with Byzantium of 907, 911, 944 years in the “Ruska Pravda” or “Russian Justice” [3].

The sources of law of Kievan Rus' and the Halych-Volhyn' Principality did not contain general term to determine the ownership title, taking into account that the content of that title depended on who was the subject of relationships and what was the ownership object. In particular, there have been differentiated “ownership

title” and “possession title” to movable and immovable things. According to the provisions of “*Ruska Pravda*” in the said countries the subjects of ownership were princes, princely and county boyars, warriors, clergy, artisans, merchants, smerds, zakups. Servants and slaves were not entitled to be the ownership subject.

The law of both Kievan Rus’ and the Halych-Volhyn’ Principality regulated the legal status of the owner authorised to dispose of property, enter into agreements, etc. Analysis of the law of Kievan Rus and the Halych-Volhyn Principality shows that the object of civil law was movable and immovable property, such as land, livestock, clothing, weapons, tools, etc [4].

In the middle of the century Mindovg established a Lithuanian state, which appears then to have collapsed and been reestablished by Viten (1293-1316). Then came Gudimin, Grand Duke from 1316 to 1341, followed by his son Olgerd, 1345 to 1377. Gudimin founded Vilna as his capital, organized the Lithuanian nation, and made great inroads into a Russia weakened by the Tatar rule. He conquered Kiev and the land of the middle Dnieper, and made western Russia subject to Lithuania. As already mentioned, he married his daughter to Casimir of Poland; and he began to introduce western civilization into his duchy, and made overtures to the Pope on the question of adopting Christianity.

The systems of criminal crimes and punishments provided by the *Nieszawa Statutes of Kazimierz IV Jagiellon*, the *Lithuanian Statutes*, the collections of *Bartłomiej Groicki (1519–1599)* on *Magdeburg law*, which remained in force throughout the period here considered, began from the beginning of the *War of Liberation of 1648 to 1654* to exclude as types of crimes and punishments attempts against the *magnateszlachta* system of governing, subverting royal power and the *Rzecz Pospolita*, the catholic and Uniate church, and so on [5, p. 188].

The concept of a crime in the right to the Lithuanian-Russian state had a dynamic development. In steps the rule of common law crime was understood as causing harm, then (in the second half of the fifteenth century.) was treated as a misdemeanor. Depending on the nature and consequences of criminal acts, crimes against health, personal and property inviolability called injustice, wickedness, and mischief. Criminal acts, including their socio-dangerous character defines the term “performance on the right”, “theft”, “guilt”.

The steppe expanses of southern Ukraine, known in the early modern period as the *Wild Fields (dyke pole)*, were not fully controlled by any of the states bordering on them. In the times of *Kyivan Rus’*, this territory was traversed by organized bands of exiles and migrants of East Slavic origin who became known as *brodnyky* (from the verb *brodyty*, ‘to roam’). From the time of the *Mongol invasion*, the steppe became an area of nomadic wandering and foraging, subject to no official regulation, by bands of fishermen, hunters, and freebooters who began to be called ‘*Cossacks*’ [6, p. 18].

During the period of the *Cossacks* to property crimes include theft, robbery, non-payment of debt. Feature responsibility for such crimes in these times was that distinguish the theft of personal property and the property of all of society. Theft of property of all society was heavy from all the then property crimes and the crime was the only punishment – the death penalty.

More than any other Russian ruler before her, Catherine the Great sought to bring a centralized, uniform administration to the empire, and the autonomy of Kiev and the rest of Ukraine diminished accordingly. In 1764 Catherine boldly abolished the Hetmanate, appointing a governor-general and an administrative body known as the Little Russian College to administer its territory. The Cossack companies were phased out, and the Orthodox church was brought fully under Moscow's control [2].

Later in Ukraine began to spread the Russian legislation. An example is the Council Code 1649.

Article 89 of this Act objects of the property were not the only things, but also bread and hay in the field. In this document, it is possible to identify some of the features. In particular, it concerns the theft during a disaster. If the offender argued that saved the property from fire or water, the property passed into his possession [7].

A further source of law, to which you should pay attention to, is "Rights, which is suing the Little Russian people". This document dates back to 1743/ "Rights, which is suing the Little Russian people," Art. 8, paragraph 1: "thieves, crooks, every day steal different things and obviously take or run away, for the first time caught on such a theft – crushed in the column rods, the second – ear chop off at the third – a nose chop off and headed iron sign bake, and on top of the penalty for the second and third drive in the post linked in a public place to beat with rods or whips, and which of them after three penalty was again caught stealing, should be hang " [8].

Basic national laws of the Russian Empire – a set of regulations on the general principles of the Russian political system – were first codified under M. M. Speransky in 1832, and in 1833 Tsar Nicholas I by issuing the Manifesto of the enactment of "The Code of Laws of the Russian Empire" declared their coming into force. In 1906, the Basic Laws were revised due to the publication of the Manifesto 17 (30) October 1905, the establishment of the Council of Ministers, the State Duma, the reorganization of the State Council.

After the October Revolution, when creating legislation was taken into account to determine the pre-revolutionary experience of the concept of extortion. This concept was set out in Art. 194 of the Criminal Code 1922 and in art. 195 criminalized blackmail. Also in 1922 the Criminal Code crimes against property owned forgery with an ax to grind. Crimes against property are also considered buying obviously stolen, intentional or reckless destruction of property. Criminal liability for extortion and provided for in the Criminal Code in 1927, however, responsible for the extortion threat on the basis of the content of the differentiated within the same article, while the Criminal Code of 1922 it was differentiated within two articles.

In Soviet times, the criminal provisions that establish responsibility for crimes against property, contained in the decrees of Soviet power, the guiding principles of the Criminal Law in 1919, the Criminal Code in 1922, Basic principles of the criminal legislation of the USSA and Union Republics 1924, the criminal Code of the USSA in 1922, 1927 and 1960, the Fundamentals of criminal legislation

of the USSA in 1958, the basis of criminal law and the republics of the USSA in 1991, and other regulatory legal acts of the Soviet period.

Harold J. Berman concluded that in analyzing the common foundations of Western legal systems, it is important, and perhaps even necessary, to view them from the perspective of a non-Western culture; and here the study of Russian law can be extremely valuable. For the law of Soviet Russia has many links with Western legal systems, and yet it has its roots elsewhere. It deals with problems very similar to those which confront our law-housing, automobile accidents, workmen's compensation, mass distribution of goods, family disorganization, inheritance, theft, homicide, and many others; and its legal solutions to these problems are in many respects similar to ours. Yet its roots are in a Communist political and social system, in a centrally planned economy, and in the historical tradition of Russia, with its Byzantine, Mongol, and Russian Orthodox heritage, on the one hand, and its window to the West, its adoption of Western institutions, on the other [9].

Foreign scientists also pay attention to the history of criminal law and, in particular, the history of property crimes.

The common law offence of larceny, which has retained its basic structure since the 1200s, has long been considered by many to have fundamental problems of application to modern circumstances, and these problems were considered so fundamental that in 1968, England and Wales replaced the common law offence with a statutory offence of theft. This revision now forms the basis of property offences in five Australian jurisdictions: the Commonwealth, Victoria, the Australian Capital Territory, South Australia and the Northern Territory.

In the United States, the term property crime typically refers to the criminal offenses of burglary, larceny, fraud, embezzlement, forgery, motor vehicle theft, and arson (Inciardi 1998). Other less known property crimes include pick pocketing, counterfeiting, and shoplifting (a type of larceny).

There are however significant differences between those jurisdictions in how the theft offences are formulated. The remaining jurisdictions are either based on the common law offence of larceny, or the 1897 Griffith Code codification of larceny. Those jurisdictions that have adopted the Theft Act 1968 (UK) c 60 model of theft now have an extended form of theft that covers the stealing of intangible property, as has Western Australia.

However in NSW, Queensland, and Tasmania the offence of stealing is restricted to forms of moveable property. Thus, Australian jurisdictions are divided over whether theft offences should be restricted to tangible forms of property or extend more generally [10].

Thus, it is possible to trace the dynamic development of rules, establishing criminal responsibility for crimes against property. For the first time to meet such rules may be in agreement with Byzantium, also in the «Ruska Pravda». The development of the rule of law was in direct proportion to the historical processes in Ukraine and the world. To further investigate the history of the Ukrainian legislation in crimes against property, you must pay attention to the way of the study of such rules by foreign scientists.

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**Soloviova Alina. To the question of historical processes on the territory of Ukraine in the context of crimes against property**

*The article analyzes the historical processes on the territory of Ukraine in the context of crimes against property. Author reveals the relationship between the development of legal norms with the state and public historical processes.*

**Keywords:** *historical process, law, crime, theft, property damage.*

**Соловійова А.М. До питання історичних процесів на території України в контексті злочинів проти власності**

*У статті аналізуються історичні процеси на території України в контексті злочинів проти власності. Розкривається зв'язок розвитку правових норм з державними та суспільними історичними процесами.*

**Ключові слова:** *історичний процес, закон, злочин, крадіжка, майнова шкода.*

**Соловьева А.Н. К вопросу исторических процессов на территории Украины в контексте преступлений против собственности**

*В статье анализируются исторические процессы на территории Украины в контексте преступлений против собственности. Раскрывается связь развития правовых норм с государственными и общественными историческими процессами.*

**Ключевые слова:** *исторический процесс, закон, преступление, кража, имущественный вред.*

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