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THEORETICAL ASPECTS AND IMPORTANT TRENDS IN THE DEVELOPMENT OF MODERN CRIMINAL LAW

Criminal law is a branch of law that concerns crimes that are committed against the public authority. It establishes the signs of a criminal offense, the composition of a criminal offense and a crime; types and sizes of punishments for their commission; the circumstances to be taken into account in their appointment; other measures of influence against the perpetrators of the prohibited acts. Researchers apply justice, law-making and enforcement as the real forms of its existence, apart from the law itself. Like every living right, it penetrates to the very depths of national life, organic being of the people [1, p. 383].

In the mechanism of protection of public relations and regulation of criminal law relations arising from the commission of a crime, criminal law occupies an important place and plays, in the most general terms, the role of such means as: 1) establishment of the limits of criminal law prohibition; 2) stimulation of positive social behavior of a person; 3) influence on criminals; 4) a peculiar form of fixing the achievements of criminal science and practice [3, p. 68].

Criminal law is distinctive for the uniquely serious, potential consequences or sanctions for failure to abide by its rules. Every crime is composed of criminal elements. Capital punishment may be imposed in some jurisdictions for the most serious crimes. Physical or corporal punishment may be imposed such as whipping or caning, although these punishments are prohibited in much of the world. Individuals may be incarcerated in prison or jail in a variety of conditions depending on the jurisdiction. Confinement may be solitary. Length of incarceration may vary from a day to life. Government supervision may be imposed, including house arrest, and convicts may be required to conform to particularized guidelines as part of a parole or probation regimen. Fines also may be imposed, seizing money or property from a person convicted of a crime [2, p. 59].

Important measures that may contribute to solving at least some theoretical and practical problems in the development of criminal law are scientific discussions of theoretical and practical problems in the development

of substantive and procedural criminal law, with clear proposals in the form of changes to legislation.

One of the most important trends in the development of the criminal law doctrine has been the study of the common problems of its development at the present stage. The main tendencies in the development of the domestic legal system are its openness, the use of progressive foreign concepts for the establishment of the rule of law, the implementation of generally recognized international human and civil rights standards, as well as the adoption of basic principles of international law.

Overall making amendments to criminal law is primarily dependent on the need of democratization of public life, reforming criminal-legal policy of country, the signed and use of advanced foreign experience, needs to combat “new wave” crimes, humanization or, vice versa, toughening of criminal responsibility for certain crimes, the need for further criminalization and decriminalization of acts, etc. [4, p. 147]. Moreover, methodology of criminal-legal researches was modified, while comparative-legal and synergistic methods play significant role in it nowadays. One of positive achievements appear the use of new technologies in teaching criminal law (eg, using multimedia systems, electronic textbooks, tests of different levels of complexity, that in particular, have been successfully implemented by the National Academy of Internal Affairs, Kyiv, Ukraine). Particular attention should certainly be paid to the application of criminal legislation, i.e. qualification of crimes.

The key direction of the development of the science of criminal law is the development of the theory of harmonization of national criminal law with the criminal law of European countries and the theory of implementation of the rules on criminal liability contained in existing international treaties, the consent of which was given by Verkhovna Rada of Ukraine, into the legislation of Ukraine on criminal liability.

One of the most significant tasks in the development of criminal law remains the need to develop a comprehensive understanding of the impact of international criminal law on the national criminal justice system. At the same time, it is proposed to define international criminal law as an independent branch of the unified system of international law, determining the crime and the limits of responsibility for its commission, as well as regulating other criminal-law issues in order to protect the world order.

The development of criminal law as a field of study cannot be considered wholly successful. One must acknowledge the problems of future development and improvements of criminal law. Therefore, the continual development of the study could potentially lead to improvement, and could therefore result in a more successful development of criminal law overall.

References:

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