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Differentiation of Liability and Legislative Technique as Key Areas of Scientific Research of the Yaroslavl Criminal Law School (Case Study of Dissertation Research by Representatives of the Northwestern Region)

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Abstract

Introduction: the article reveals the versatility and uniqueness of doctrinal scientific directions, such as differentiation of criminal liability and legislative technique in criminal law, through the prism of results of dissertation research prepared by representatives of educational organizations of the Northwestern region under the leadership of L.L. Kruglikov. *Purpose:* by considering works of L.L. Kruglikov's students, to describe a phenomenon of the Yaroslavl criminal law school of the XX-XXI century – the “Kruglikov School”. *Methods:* the study is based on legal, analytical, historical and comparative methods, as well as the method of deconstruction. *Results:* the analysis shows that the dissertation research prepared by representatives of universities in the Northwestern region covers a fairly wide range of problems of criminal law. At the same time, all the works mentioned in the article were carried out within the theory of differentiation of liability and the rules of legislative technique and became a contribution to the formation and development of the Yaroslavl criminal law school. *Conclusion:* the research of representatives of the school in its entirety made a significant contribution to the development of problems of sectoral and intersectoral differentiation of liability, as well as legislative techniques of domestic and foreign criminal law. The analysis of dissertation research conducted under the guidance of L.L. Kruglikov shows that the doctrinal direction of differentiation of liability and legislative technique chosen by him turned out to be universal for the entire theory of criminal law.

Key words: criminal law; differentiation of criminal liability; legislative technique; Yaroslavl criminal law school.

5.1.4. Criminal law sciences.

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Introduction

On January 11, 2025, the outstanding Russian legal scientist Lev L. Kruglikov celebrates his 85th birthday. Doctor of Sciences (Law), Professor, Honored Scientist of the Russian Federation – this is a far from complete list of official assessments of the scientific achievements that Lev Kruglikov currently has.

The Yaroslavl law school unites several generations of legal scholars who conducted their research at the P.G. Demidov Yaroslavl State University and (or) prepared their dissertation research under the guidance of professors of this university. This school is known for bright names of many researchers representing various branches of legal science. The name of L.L. Kruglikov deservedly occupies a special place among them, since he created a unique scientific criminal law school that combines problems of sectoral and intersectoral differentiation of liability, as well as legislative techniques of domestic and foreign criminal law.

The scientific foundation of the criminal law school created by Lev Kruglikov was formed by the results of his doctoral dissertation “Legal means of ensuring the fairness of punishment in the process of its individualization” [1]. This work received mixed reviews in the scientific community and generated a lot of controversy and discussion. Some scientists at that time generally denied the scientific significance of circumstances mitigating and aggravating punishment, believing that they perform a purely “technical” function for a minor quantitative adjustment of the size or duration of the chosen type of punishment. But, despite the above-mentioned negative sentiments that took place in the scientific community, Lev Kruglikov successfully defended his doctoral dissertation in 1986. Searching for answers to questions about legal categories that significantly change public danger of a committed crime and (or) the identity of the offender, as well as studying the importance of general principles of legal technology and their implementation in criminal law, Lev Kruglikov laid a basis for a new scientific direction – legislative technique and differentiation of liability in criminal law.

Nowadays, the works of the Yaroslavl criminal law school are the basis of the theory of differentiation of liability and legislative techniques in criminal law. No modern research in this field

can do without analyzing and taking into account the position of L.L. Kruglikov, contained both in his numerous scientific works and in the works of his students who prepared and defended candidate and doctoral dissertation research.

The Yaroslavl criminal law school unites several dozen researchers who took a postgraduate course at the Department of Criminal Law and Procedure (later – Criminal Law and Criminology) of the P.G. Demidov Yaroslavl State University. Many of them live and work in Yaroslavl. A considerable part of the scientific school of L.L. Kruglikov is formed by representatives of the Northwestern Federal District, who began their scientific career at the Vologda Institute of Law and Economics of the Federal Penitentiary Service, Northern (Arctic) Federal University named after M.V. Lomonosov, Vologda State Pedagogical University, Northwestern Branch of the Kutafin Moscow State Law University, etc.

We can hardly present a complete review of all dissertations prepared under the scientific supervision of Lev Kruglikov due to the significant amount of scientific material. However, even a brief analysis of the research results of the Yaroslavl criminal law school, which were achieved by scientists of the Northwestern Federal District shows a full versatility and breadth of the scientific direction proposed by L.L. Kruglikov, as well as his unique talent as a scientist and teacher.

General Part

Dissertation studies prepared by representatives of universities of the Northwestern Federal District on the differentiation of criminal liability and legislative techniques for the formulation of criminal law prescriptions cover a fairly wide range of problems in criminal law. The effectiveness and high theoretical and practical significance of the research was confirmed by the decisions of the dissertation councils at the country’s leading universities, such as Kazan (Volga Region) Federal University, Ural State Law University named after V.F. Yakovlev, Saratov State Law Academy, Volgograd Academy of the Ministry of the Interior of the Russian Federation, and Kuban State Agrarian University.

A number of L.L. Kruglikov’s students in their research addressed certain problems of the General Part of the Criminal Code of the Russian Federation. Thus, one of the first such

studies was the work of S.A. Manoilova "Emotions in criminal law". In her dissertation, she considers emotions as a legally significant feature that affects the choice and establishment of criminal liability. According to the author, the criminal legal significance of emotions should be made dependent not on their objective (to be established) manifestation, but on their influence on the mental (subjective) content of the criminal act (otherwise, on the degree of their severity, nature and intensity of their impact on conscious control of the individual). The paper examines in detail the influence of emotions on the qualification of crimes, criminal liability and punishment [2, pp. 12, 19–22].

V.N. Nekrasov continued the study of problematic aspects of the General Part of the Criminal Code of the Russian Federation in terms of unfinished criminal activity. In his work, he developed the concept of constructing norms on an unfinished crime using techniques and means of legislative technique and through the prism of differentiation of liability. The author proposes an original scientific concept, according to which the types of unfinished crime include not only preparation for a crime and attempted crime, but also voluntary refusal to complete the crime. Separate proposals for improving criminal legislation are formulated in the analysis of intersectoral differentiation of liability for unfinished criminal activity [3, pp. 8–9].

The dissertation of S.V. Shilovskii is devoted to the study of the method of committing a crime as an element of a criminally punishable act and a differentiating means. In the work, the author addresses a complex problem of the accuracy and uniformity of the description of objective elements of a criminal act in criminal law. Moreover, criminal law properties of the method of committing a crime are studied through the prism of the optimality of differentiation of criminal liability and legislative technique. Based on the noted circumstances, the author develops a conceptual idea of the method of committing a crime as an element of a criminally punishable act and a differentiating means (4, pp. 7–9).

Quite a large number of graduate students have identified the topics of their research in the field of the theory of punishment and other measures of criminal legal impact.

V.F. Shiryayev was one of the first researchers of the Northwestern region who defended

their candidate dissertation under the supervision of L.L. Kruglikov. In his work on punishment as one of the elements of criminal legal impact, he argues that criminal legal impact on a criminal is provided by a set of measures that differentiate criminal liability depending on the severity of the crime committed, typical personality traits of the perpetrator and other circumstances of legal importance. Analyzing the practice of implementing criminal liability, the author gives a critical assessment of the goals of punishment stated in the criminal law. In his opinion, the criminal legal impact should include not only retribution for the perpetrator, but also compensation for the victim of harm/damage caused as a result of the commission of a crime. V.F. Shiryayev proposes key legal characteristics of probation as a measure of effective criminal legal impact, which is implemented through individually selected programs of intensive educational, labor and other impact, without assuming isolation of the convict from society [5, pp. 7–10].

S.P. Donets continued to study the nature of mitigating and aggravating circumstances. He established key legally significant elements that are inherent in each of the circumstances listed in Articles 61 and 63 of the Criminal Code of the Russian Federation. This feature determines the possibility of a unified assessment of any factual circumstance that could claim to be mitigating or aggravating punishment in the process of individualization of criminal liability. On the same basis, the author attempted to prove the inexpediency of using a closed list technique in relation to the institution of aggravating circumstances. Such a restriction, in his opinion, deprives the court of the opportunity to objectively assess public danger of the criminal's personality and, accordingly, to make a decision that does not contradict the principle of justice. These and some other conclusions formed the basis for proposals to amend and supplement criminal law norms on general and special rules for sentencing [6, pp. 4–6].

A.L. Santashov became the only researcher who applied key provisions of the theory of differentiation of liability and legislative technique to the provisions of penal legislation. He successfully carried out the search and subsequent systematization of means of differentiation of liability, used not in the selection, but in

the process of executing an already imposed punishment in the form of imprisonment. At the same time, the subject of the study was reduced to limits of the application of this punishment in relation to juvenile convicts. As a result, the author identified a set of circumstances differentiating the execution of deprivation of liberty, characterizing the criminal legal status of a convicted person (minor), the regime of a penitentiary institution, conditions of serving a sentence, etc. [7, pp. 4–6].

The correlation of differentiation of liability implemented in the domestic criminal law and the criminal laws of individual states of Western Europe became the subject of O.N. Chuprova's dissertation research. A deep comparative analysis of criminal laws of some European states made it possible to classify the differentiation of liability according to several types of grounds, such as liability realization stage, number of crimes committed, and moment of the end of criminal activity. Each element of the proposed classification was studied in detail for the presence of its characteristic means of differentiating criminal liability. The author came to a conclusion about their impact on the decision to choose a liability measure, as well as about features and preference of techniques for technical and legal registration of the identified means differentiating criminal liability [8, pp. 7–9].

An attempt to consider criminal liability through the prism of a socio-legal conflict was made by E.V. Popadenko, although the subject of her scientific search was alternative preventive means used in domestic and foreign legislation. She drew attention to the fact that alternative punitive measures of criminal legal impact have significant preventive potential, and therefore are quite often used by law enforcement in foreign countries. In order to ensure a balance of interests of the individual (criminal), victim, society and state, the author proved the need to expand the practice of applying various types of exemption from criminal liability and punishment, which are also considered as separate types of differentiation of criminal liability – the starting point of their implementation [9, pp. 6–8].

The measures provided for by the criminal law applied to a convicted person evading punishment were studied by E.A. Timofeeva from

the position of differentiation of liability and legislative technique. "Evasion" and "malicious evasion" from serving a sentence have rather significant socio-negative potential. The latter, under certain conditions, may require the independent establishment of criminal liability. The author is inclined to consider evasion from serving a sentence as one of the means of intersectoral differentiation of both criminal and administrative liability. In this regard, the forms of liability for evading each type of punishment provided for by criminal law were proposed and the need for differentiation of criminal liability by types of compositions of relevant crimes against justice was proved [10, pp. 8–12].

Finally, O.L. Stroganova studied general principles and special rules for the imposition of criminal punishment and presented a comprehensive justification for a number of legally significant elements, the establishment of which in the process of choosing the type and size (term) of punishment significantly affects the determination of the final liability measure for the convicted person. The application of special rules for sentencing in the presence of certain means of differentiating criminal liability provided for by norms of the General Part of the Criminal Code of the Russian Federation should be based on median values of the most severe punishment, but not on its upper or lower limits.

The legal uncertainty of certain provisions of the institution of punishment naturally causes difficulties in the process of law enforcement. To ensure a uniform understanding of the essence of individual circumstances mitigating and aggravating punishment, the author indicated the need to correct the content of some special rules governing the imposition of punishment [11, pp. 8–17].

Special Part

Some of L.L. Kruglikov's students realized their scientific interests by studying individual institutions of the Special Part of the Criminal Code of the Russian Federation. Thus, V.F. Lapshin considered issues of differentiation of liability and legislative technique in relation to a separate group of economic crimes. At the time of defending his candidate dissertation, he attempted to substantiate the need to identify specific types of objects of criminal law protection, the totality of which forms the generic object of Chapter 22 of the Criminal Code "Crimes

in the field of economic activity". This made it possible to build a multi-level classification of these criminally punishable assaults, one of the elements of which were crimes in the field of financial resource allocation. Here, separate solutions were proposed for the formation of dispositions and sanctions of "financial" norms of criminal and administrative legislation [12, pp. 7–10].

E.V. Krasil'nikova devoted her work to the specifics of the criminal law protection of freedom of professional activity of journalists. The subject of her research was limited to the content of the disposition and sanction of Article 144 of the Criminal Code of the Russian Federation considered through the prism of differentiation of criminal liability and rules of technique for constructing norms of criminal law. She studied various means of legislative technique: legal language, legal constructions, presumptions, legal axioms, fictions and legal symbols from the standpoint of legal and linguistic science. Special attention was paid to the component of the legal language – legal idioms used as universal language models. A detailed analysis of the essence of public relations (an object of criminal law protection) arising in the course of professional activity of journalists predetermined a number of scientifically sound decisions on the establishment and implementation of intersectoral differentiation of legal liability for socially dangerous encroachments in this area. Based on the results of the study, proposals for amendments and additions to the Criminal and Administrative codes of the Russian regarding the specifics of protecting the rights of a journalist were formulated [13, pp. 6-9].

A successful attempt to combine theories of differentiation of criminal liability, legislative techniques and criminological theory of victimization was made by L.A. Kolpakova. Proposals to adjust the content of articles 150, 151 and 156 of the Criminal Code of the Russian Federation were developed on the basis of the study of the social, legal and criminological content of the family, conflict in the field of family relations and the victim – victim of family violence in its various variations, such as criminal, physical, mental. A comprehensive assessment of public danger of acts directed against the interests of the family made it possible to justify the need to include provisions on the means of

differentiating criminal liability in the norms of not only the Special, but also the General part of the Criminal Code of the Russian Federation [14, pp. 6–10].

Doctoral dissertations

After defending their candidate dissertations, some of L.L. Kruglikov's students expanded the previously announced boundaries of the subject of scientific research. Successful solutions in this area allowed them to reach a new level of effectiveness – to prepare and defend doctoral dissertations.

Thus, in 2004–2016, V.F. Lapshin studied the specifics of the group of financial crimes he identified in the context of the problems of differentiation of liability and legislative technique. To date, they are included in the system of socially dangerous encroachments provided for by the norms of Chapter 22 of the Criminal Code of the Russian Federation. After conducting a comprehensive analysis of financial relations as a subject of regulatory regulation of domestic financial, tax and administrative law, V.F. Lapshin reviewed the content of these public relations as an object of criminal law protection.

He proved that financial relations are a kind of public relations based on the principle of power-subordination, in which the authorized party is either the state as a whole, or its bodies and institutions at the regional and local levels. Business entities and citizens represent only an unauthorized party in financial legal relations, which is one of the main features distinguishing financial and economic relations.

The state, regional and municipal authorities, as participants in financial relations, pursue political, social and other goals that are not related to making a profit from targeted financing. Moreover, many projects and programs provided with budget financing can be obviously unprofitable, which from the point of view of economic business analysis is recognized as an unpromising and unacceptable economic activity. But at the same time, the state implements these projects within the framework of financial relations, performing functions that are not typical for business institutions. This is another distinctive feature of financial relations, which does not allow them to be recognized as an integral part of economic relations.

Finally, any financial offense primarily harms public interests, that is, the legally protected

interests of society and the state. Such legal specifics indicate the possibility of recognizing certain types of public relations in the field of economic activity as only an additional or optional object in the composition of financial crimes.

So, public relations in the field of economic activity and even relations in the field of economics protected by the norms of Section VIII of the Criminal Code of the Russian Federation only partially include financial relations – an independent object of criminal law protection.

Hence, public danger of all financial crimes requires reassessment. While remaining a part of crimes in the field of economic activity, financial crimes mainly belong to the categories of minor or moderate severity. Taking into account high social importance of finance, some legal features of the commission of financial crimes, as well as quantitative and qualitative characteristics of the negative consequences resulting from their commission, the researcher came to the conclusion about high public danger of crimes of the considered group. This determines the need to review not only sanctions of the relevant norms of the Special Part of the Criminal Code of the Russian Federation, but also excludes the possibility of using preferential mechanisms for exemption from criminal liability and punishment of those guilty of committing financial crimes.

Mainly, based on the results of L.L. Kruglikov's research on the specifics of legislative technique for the formation of criminal law prescriptions, V.F. Lapshin proposed a general algorithm for constructing compositions of financial crimes and also described features of the use of legislative technique in describing a socially dangerous act – a financial offense. Besides, he developed L.L. Kruglikov's ideas on the rules for systematic use of qualifying and especially qualifying elements with regard to all types of financial crimes.

In terms of the specifics of establishing and implementing liability for financial crimes, a set of evidence is proposed to increase the severity of the criminal legal impact. This is expressed not only in increasing upper limits of sanctions of the relevant criminal law norms and additional application of property measures, but also in refusing to release the perpetrator from criminal liability if the latter has fully compensated for

the damage caused by the crime. The practice of mandatory exemption from criminal liability based on the postulate, "if you pay, you will not be convicted", has been seriously criticized due to a decrease in the degree of prevention of the fight against financial crime [15, pp. 9–17].

A.L. Santashov was the first and, perhaps, the only student of L.L. Kruglikov who applied key provisions of the theory of differentiation of liability and legislative technique to the provisions of penal legislation in both his candidate and doctoral dissertations. So, if his candidate dissertation addresses issues of legislative technique and differentiation of liability in relation to the problems of execution of punishment in the form of deprivation of liberty in relation to minors, then the doctoral dissertation substantiates the concept for improving criminal law and penal content of juvenile responsibility.

The use of general provisions on the differentiation of liability allowed A.L. Santashov to identify the means of differentiating liability of minors not only in criminal law, but also in penal law. Moreover, the author managed not only to identify, but also to systematize the means of differentiating liability of minors. The paper substantiated the need to identify a category of "liability of minors in criminal law" including criminal and other types of liability of minors provided for by the norms of the Criminal Code of the Russian Federation and the Penal Code of the Russian Federation; to consolidate in legislation the common cross-cutting goals of the measures of criminal legal influence exerted on them; to specify the legal status of juvenile convicts in legal relations with institutions and bodies executing criminal penalties.

Applying provisions of legislative technique, the researcher analyzed the use of technical and legal rules in their distribution and description in the norms of penal legislation. This made it possible to formulate proposals to improve the effectiveness of designing norms on liability of minors who violated the criminal law prohibition. The author's conclusions about a dynamic aspect of the components of legislative technique, the inconsistency of the means of differentiating liability of minors are original.

A.L. Santashov made an attempt to correlate the differentiation and individualization of liability on the example of juvenile convicts. Thus, the paper considers problems of differentiation

and individualization of liability of minors not only as a subject of crime, but also as a subject of responsibility. According to the scientist, differentiation and individualization of liability and punishment of minors should be cross-cutting and intersectoral in nature (in criminal, criminal procedure and penal legislation) and ensure the continuity of these branches of law. The author proved the idea of improving differentiation and individualization liability of minors in evading their punishment, as well as substantiated the expediency of transferring persons aged 18 to 21 years from juvenile correctional facilities to panel settlements. The author's revision of stages (milestones) of the development of domestic legislation on differentiation and individualization of criminal liability of minors, as well as the identified positive experience of some foreign countries in terms of deepening differentiation and individualization of liability, also deserves attention [16, pp. 9–15].

V.N. Nekrasov's doctoral dissertation is devoted to the search for an optimal scientific and theoretical concept for the protection of public relations in the field of innovation in criminal law. This research perspective is conditioned by modern social challenges in the field of innovation development and the need for proper safe application of its results. Traditionally, innovation is revealed mainly as a category used in economics and emphasizing the technical (scientific and technical) nature of the developments created and implemented in industry and production. However, at present, innovative activity has become an integral part of any sphere of public life and forms the basis of social development and relations in this area. This, in particular, finds expression in changes in public relations under the influence of digital transformation, development of robotics and artificial intelligence systems, etc. On this basis, V.N. Nekrasov applies "innovation" as an integral part of the modern object of criminal law protection and analyzes current criminal law for its compliance with the complex of challenges that come during the transformation of the form and content of public relations.

The dissertation defines a concept of "innovative activity" and reveals its connection with related categories, characterizes public relations in the field of innovation, and also pres-

ents a range of norms aimed at criminal law protection of relations in the field of innovation. Special attention is paid to characteristics of modern trends in criminal policy in the field of protection of innovative public relations and the retrospective and comparative analysis of liability for socially dangerous encroachments on relations in the field of innovation. On the basis of the classification carried out, the features of types of innovative activities in criminal law are revealed.

V.N. Nekrasov developed the author's scientific and theoretical concept for protecting public relations in the specified field of activity, which includes the justification for the need to identify innovative relations as an independent object of criminal law protection, as well as a reasoned statement according to which the norms on crimes in the field of innovation activities form separate relations formed by innovation and its subsequent use.

It should be noted that this dissertation in a number of aspects became a continuation of the candidate dissertation of V.N. Nekrasov, since in the work, already in relation to innovative relations, the issues of ensuring differentiation of liability for encroachments on these relations and improving the legislative technique of issuing relevant criminal law prescriptions received further scientific development. The paper formulates proposals for the use of individual components of legislative technology in the norms on crimes in the field of innovation, critically evaluates and clarifies a set of means of differentiating liability for crimes in the noted field of activity [17, pp. 9–15].

Conclusion

Now, analyzing the works prepared under the guidance of L.L. Kruglikov, we can say with confidence that the doctrinal direction of differentiation of liability and legislative technique chosen by him turned out to be universal for the entire theory of criminal law. There is not a single issue of criminal law science that does not come into contact with this area and which could not be considered through the prism of differentiation of criminal liability and legislative technique.

Lev Krugliov's students followed this direction in their research activities. Though all these young scientists, in fact, were engaged in solving particular problems of the science of crimi-

nal, penal law and criminology, as a result, each dissertation, without exception, became a contribution to the formation of the Yaroslavl criminal law school – the Kruglikov School. Therefore, the scientific and organizational activity of the researcher is an unprecedented phenomenon that has no analogues in the modern history of post-Soviet and Russian criminal law.

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