

DISCUSSION

**PROTECTION OF PROPERTY BY MEANS OF CRIMINAL LAW
IN UKRAINE DURING THE IX-THE END OF XIX CENTURY:
HISTORICAL ASPECTS**

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Abstract: *The article analyzes legal protection of property rights under the laws on Ukrainian lands. The author explores the point of view of several scientists who were contemporaries of the laws. The present study aims to investigate the legal dimensions of property crimes towards the concept of crimes against property. The study has concluded that there have been lots of impacts on Ukrainian legal tradition. Therefore, there is no linearity in the development of criminal law norms throughout the territory of Ukraine.*

Keywords: *crime, theft, robbery, property, property damage*

INTRODUCTION

In the present times, Ukraine has to ensure the rights, freedoms and legitimate interests of a person and a citizen who freely coexist within the framework of civil society.

Despite the lots of papers devoted to analysis of protection the property, it is essential to study history of the legal constructions of crimes, as knowledge of the past and its reevaluation plays an important role in understanding a legal tradition. Offences relating to property are some of the most complex criminal offences, due to the complex forms and uses of property itself. Crimes against property have been a central concern in many societies and cultures throughout history.

The analysis focuses on the cause and effect of historical norms of crimes against property and their development. It also pays attention to the internal changes in status of the Ukrainian state and its effect on property protection.

**I. CRIMINAL LAW ON CRIMES AGAINST PROPERTY ACCORDING
TO RUSSKAYA PRAVDA**

Russkaya Pravda, as the law of Kievan Rus, was the first codified set of laws in the territory of present Ukraine. It contained many provisions that secured property protection. Land ownership existed in the form of boyar and monastic estates. The primary way of acquiring this type of property was the seizure of the land of the communities. The analysis

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of the articles of Russkaya Pravda testifies to the high level of development of the criminal regulation of property relations for that time. The property was among the objects of illegal encroachment. Among the property crimes, Russkaya Pravda gave a lot of weight to “tatba”.¹

However, in Russkaya Pravda, there were no terms such as “robbery” or “theft”. Such crimes were united by a single notion – “tatba”. The main feature that differentiates this type of crime was the subject of an encroachment. The severity of “tatba” depended on the value of the stolen property. The maximum fine of 12 hryvnia was imposed on those who committed the abduction of a serf.

Michael Volodymyrsky-Budanov divided “tatba” into three categories, depending on the value of the stolen property: a) the high type, with a punishment of 12 hryvnias (for example, a serf theft – article 16 of the Short Edition, article 38 Spatial Editon, beaver theft – article 69 of the Spatial Editon); b) the average type – 3 hryvnias and 30 kunas (for example, the theft of a dog, a hawk or a falcon – article 37 of the short edition, cattle – article 41 of the Great Editon); c) the low type – from 9 to 60 kunas (for example, a pigeon, a chicken - article 36 of the Short Edition, a mare – article 45 of the Spatial Edition).²

Based on the analysis of Russkaya Pravda, we can conclude that the subject of theft (tatba) was property, the owner of which was not guilty. Thus, the property that was abducted by a perpetrator had to belong to another person. Subjects belonging to the right of ownership to other persons are purchased from them by other persons only as a result of the transfer, which provides certain legal relations between them³. It also should be noted that the regulation of tatba was a law only of a privileged stratum of the population – nobility. On the contrary, non-free people (such as smerd) did not enjoy the protection but were the subject of the regulation.

In the Short Edition of Russkaya Pravda, as the subjects of crimes mentioned horses, weapons, clothing – art. 13; serf – art. 29; horse, ox – art. 31; boat – art. 35; pigeon, chicken, duck, goose, crane, swan – art. 36; dog, hawk, falcon – art. 37; hay, firewood – art. 39; sheep, goat, pig – art. 39. In the Spatial edition, the subjects of crimes are a horse, a weapon, clothing – art. 34; horse, clothes, cattle – art. 37; cattle – art. 41; cattle, sheep, goats, pigs – art. 42; bread (“rye”) – art. 43; the prince’s horse (the prince’s horse), a horse of a smerd, a mare, an ox, a cow, a mare or a cow, a calf, a pig, a sheep, a ram, a stallion, cow’s milk. – art. 45; a horse – art. 63; a beaver – art. 69; bees, honey – art. 76; river and sea vessels – art. 79; a hawk, a falcon, a pigeon, a chicken, a duck, a goose, a swan, a crane – art. 81; hay, firewood – art. 82 [245]. According to Russkaya Pravda, the mens rea included intent and negligence. The motives and the initial fault were not clear. However, the legal reality of that time knows the mitigating and aggravating circumstances of guilt. To mitigating circum-

¹ ZARUBA, V. *Derzhava i pravo Kyivskoi ta Halytsko-Volynskoi Rusi (kinets VIII st.- pochatok KhIV st.)* [State and Law of Kyiv and Galician-Volyn Rus (the end of the VIII century - the beginning of the V century.)]. Kyiv: Pravda, 2007. p. 70. [in Ukrainian].

² VLADIMIRSKY-BUDANOV, M. *Obzor istorii russkogo prava* [Review of the history of Russian law]. Kiev: Litho-printing house of the Partnership I. N. Kushnerev and co., 1907. p. 321. [in Russian].

³ KALACHOV, N. *Predvaritelnye yuridicheskie svedeniya dlya polnogo obyasneniya Russkoj Pravdy* [Preliminary legal information for a full explanation of the Russkaya Pravda]. 2nd ed. SPb., 1880. No. 1, pp. 131–132. [in Russian].

stances, the law classifies crimes committed in a state of intoxication, to the aggravating – a mercenary intent. The legislator also knew the notion of recidivism, repetition of a crime (for example, in the case of horse theft). It burdened the punishment for a crime committed by several persons.⁴

The Galician-Volyn Chronicle is a chronicle, and in the Czech lands, the Chronicle of Kosma contains information about some law aspects. Although it was neither a set of laws nor a codified regulation, this document is interesting because of legal terminology and legal institutes it includes. The Galician-Volyn Chronicle refers not only to the elements of the execution of legal proceedings but also to the legal aspects of criminal law since the criminal (material) and procedural law fields always develop in interconnection. The Chronicle uses the word “robbery”. The Chronicle did not put into this word the meaning of the contemporary term of robbery, as the capture of someone else’s property.

II. CRIMINAL LAW ON CRIMES AGAINST PROPERTY ACCORDING TO LITHUANIAN LAW

In the 30s of the 12th century began the process of feudal fragmentation of the Rus. It led to the weakening of the state, which provoked an active interference of other states in the internal affairs of Rus. Therefore, the laws of the Lithuanian Principality began to appear on the territory of Ukrainian lands.

The charter of King Casimir to the Lithuanian, Ruthenian and Zhmud clergy, nobility, knights, gentry, boyars and metichs (Privilege of 1457) is the first universal act on the Ukrainian lands. The Ukrainian researcher, Zhanna Dzeiko, argues that this charter contains an informational introduction, which resembles the preamble in the modern sense, which includes an appeal “in the name of God”. The letter stipulates the norms regulating various spheres of social relations, relating to the state and social system, rights to estates, issues of legal proceedings, family relations, etc.⁵

The privilege of 1457 established the principle of personal responsibility for the offence. Responsibility could be applied originally from a seven-year age; however, the punishment for children was softened. According to the second statute – from 14 years and from 16 years, according to the third statute. Crimes against properties included theft, destruction or damage to someone else’s property, arson, robbery, and others.⁶

In 1468 was proclaimed the Casimir’s Code, which had the main criminal and criminal procedural provisions. Its authors made extensive use of the legal terminology of the Russkaya Pravda, the legal ideas contained therein and the specific provisions of it. Besides, it took into account the opinions of the representatives of the ruling class and other members of the society, led by Casimir IV. The document was stated by the mercy of King

⁴ TERLYUK, I. *Istoriia ukrainskoho prava vid najdavnishykh chasiv do XVIII stolittia* [The History of Ukrainian Law from the Ancient Times to the XVIII Century]. *A Textbook on the History of State and Law of Ukraine*. Lviv, 2003, 156 p. [in Ukrainian].

⁵ DZIAKO, Z. *Zakonodavcha tekhnika u Velykomu kniazivstvi Lytovskomu*. [Legislative technology in the Grand Duchy of Lithuania]. *Actual problems of state and law*. 2009, Vol. 49, pp. 53–59. [in Ukrainian].

⁶ TYSHCHYK, B. *The social and political system and law of Ukraine in the Lithuanian state and Rzeczpospolita: a manual for law students*. Ivano-Frankivsk, 1996. p. 35.

of Poland, Grand Duke of Lithuania and Rus, Prince of Prussia and Zhemait and other lands.” Each of them participated in preparing, discussing, accepting or promulgating the contents of the Code.

The Statute of 1529 became the first most complete set of laws of the Grand Duchy of Lithuania which was in force on the territory of Ukraine. Most of the articles of the Code are related to crimes against property, especially, to “tatba.” Scholars highlights that theft (tatba) was the most common crime. The Code distinguished different kinds of theft: committed the first time, repeated theft, theft of a horse or cow, when the thief was caught at the crime scene. Depending on the circumstances, theft led to different responsibility. This indicated the casuistry, which is characteristic of a given period of time.

The first three sections of the Statute 1529 were devoted to the legal norms of the state (on governance, the defense of the zemstvo, the powers of the government, treason, gentry liberties, etc.), the following five sections (VI, VII, XI–XIII) regulated criminal, judicial and criminal proceedings legal relations, two sections (VIII, IX) were related to land and forestry, as well as various lands. Two more sections (IV, V) regulated family-marriage relations, inheritance and guardianship rights, and one section (X) was devoted to civil relations. The Statute was legitimized as the primary source of law on the Ukrainian lands and throughout the Grand Duchy of Lithuania, only the norms approved by the Grand Duchy rule: “to judge and rule only those written rights that were given to all subjects of the Grand Duchy”.⁷

Analyzing this document, we may allocate such groups of encroachments on property: attacks on personality and property (attack, robbery) and encroachment on property (robbery, theft, appropriation of someone else’s property, illegal use and damage to someone else’s property; encroachment on immovable property).⁸

The Statute of 1566 was divided into 14 sections and had 367 articles. Compared to the first Statute, the second one shows a more sophisticated systematization of legal material. Sections one, two and three regulate the rules of state law, sections four deal with the judiciary, sections five to ten regulate private law, while sections eleventh to fourteenth dedicated to criminal and procedural law. The thirteenth section established liability for crimes against property. Lots of the rules of this statute are devoted to robbery.

The third Statute was evidence of the further development of the legal system of the Grand Duchy of Lithuania. The commission created to supplement the Statute included two councillors (one bishop and one secular) and nine representatives of the nobility (one from each voivodeship), including Catholics and Orthodox.

Crimes against property included theft, arson, damage or destruction of someone else’s property, etc. A special group of them was robbery – an open assault to seize property, and brigandage – a deliberate assault on someone else’s house, yard or property. If anyone was killed during the attack, all participants, regardless of their role, were punished by death.

⁷ GURBYK, A. Statuti Velikogo knyaz vstva Litovskogo 1529, 1566, 1588. Statutes of the Grand Duchy of Lithuania 1529, 1566, 1588. In: *Encyclopedia of Ukrainian History* [online]. [2017-09-11]. Available at: <http://www.history.org.ua/?termin=Statuty_V>. [in Ukrainian].

⁸ SHEPELEV, I. Charakteristika ugolovno-pravovykh norm o xishhenii imushhestva po Statutu 1529 goda [Characteristics of criminal law on the theft of property under the Statute of the Grand Duchy of Lithuania of 1529]. Minsk: Institute of Management and Entrepreneurship. In: *Elektronnaâ biblioteka BGU* [online]. [2017-23-08]. Available at: <<http://elib.bsu.by/handle/123456789/54442>>. [in Russian].

Among all three Statutes, the most elaborated was the Statute of 1588, which largely retained the basic principles of custom law.

III. CRIMINAL LAW ON CRIMES AGAINST PROPERTY UNDER NON-CODIFIED COSSACK LAW

The Cossack system of custom law has deep roots and was formed precisely in the XV–XVIII centuries. The importance of custom law is obvious as even by a royal diploma of March 27, 1654, the Viysko Zaporozke was granted the right to convict “their elders by their ancient laws”.

Custom law has not evolved into the system due to the reception of laws of other countries. The criminal law of the Zaporizhia Sich reveals the great influence of the Lithuanian Statutes and Magdeburg law, extending throughout Ukraine at that time.⁹

The crime rate in Zaporizhzhya Sich was not significant. The crime was understood as a material act that causes harm either to the property rights of a Cossack or to the whole community, as well as a formal act that violates established legal practices.

During the Cossack era, crimes against property involved theft, robbery, non-repayment of debt. The peculiarity of responsibility for such crimes during this period was that they distinguished between theft of personal property and property of the entire Zaporizhzhya society. Besides, the theft of property of the whole Zaporizhzhya society was the most severe of all property crimes. This crime had the only punishment – the death penalty.

An essential feature of the Hetmanate criminal law was its private nature. The persecution of a crime, even a hard one, was mostly a private matter.

The category of property crimes included brigandage (violent armed attack to take property), robbery (open capture of another’s thing to enforce a court judgment, or cover debt or causing harm), theft (in ordinary and qualified forms). Robbery and brigandage were punishable by death and monetary fines.

IV. CRIMINAL LAW ON CRIMES AGAINST PROPERTY ACCORDING TO MOSCOW STATE LEGISLATION

The legislation of the Tsardom of Russia began to spread on the territory of Ukraine. An example is the Sobornoye Ulozheniye 1649 (lit. Council Code). The Sudebnik of 1497 occupied an essential place among the sources of the Ulozheniye.¹⁰ Traditionally high interest of this Sudebnik caused property crimes. Sudebnik included theft in the form of robbery, theft and embezzlement, purchase of stolen things, arson, the destruction of

⁹ PADYKH, J. Sudy ta sudovi protsesy staroi Ukrainy [Courts and litigation of old Ukraine: history essay]. *Notes of Shevchenko Scientific Society*. 1990, p. 209.

¹⁰ SOLOVIOVA, A. Istoryko-pravovyj analiz vydiv zlochyniv proty vlasnosti na ukrainskykh zemliakh. [Historical and legal analysis of types of crimes against property on Ukrainian lands]. *State and Law*. 2013, No. 59, p. 362. [in Ukrainian].

landmarks and the plundering of another's land.¹¹ In accordance with the rules of Sudebnik 1497, theft (“tatba”) consisted in the secret abduction of someone else's property.¹² It should be noted that established liability for theft was more severe than the punishment for robbery. Theft was among the most serious crimes, along with murder. “Tatba” was regarded as a more severe crime than robbery which is also evidenced by the fact that the robber could be released from criminal responsibility in connection with reconciliation with the victims. However, the reconciliation in case of theft was not allowed. According to scientists, the particular immorality of “tatba” was the reason for a given view of theft.

Scientists conclude that “at the beginning of history, when everyone relied only on his own strength, the secret thief caused much more disgust and seemed more dangerous than the one who openly pursued his goal”,¹³ “Old Russian law distinguished people of good and evil, with one of the key differences between them which was a secret, insidious way of acting”.¹⁴ Unlike robbery, in which the victim could defend himself from the robber, during the theft he was deprived of such possibility. Therefore, a hidden method of extracting someone else's property testified to the exceptional vicious manner of the perpetrator. Therefore, the person who committed the theft deserved the most severe punishment.

Article 89 of the Sobornoye Ulozheniye 1649 had different subjects, including bread and hay on the field. Analyzing this document, we can also identify some features. In particular, it concerns theft during natural disasters. If the perpetrator argued that he saved the property from fire or water, the property passed into his possession.¹⁵

In accordance with the Code actively applied corporal punishment. So, for example, as noted above, for the first theft – the perpetrator was punished by cutting his ear off and deprivation of liberty for two years, for theft, committed for the second time, by cutting his other ear off and deprivation of liberty. This act stipulated that the secret theft of someone else's property was a more severe crime than forcible theft of property. This difference was caused by the fact that the legislator considered the secrecy to be a sign indicating the cowardice of the offender. The robbery was equated with a peculiar struggle for a property, which, in turn, was due to the fact that society was accustomed to raids.

The military Charter of Peter I (April 26, 1715) [16] was a Military Criminal Code, which did not contain the norms of the General Part. Gennady Molev rightly emphasizes that the Article did not cancel the Council Code, but acted in parallel with it.¹⁶

¹¹ ROZHNOV, A. Krazha (tatba) po Sudebniku 1497 goda. [Theft (Tatba) under the Code of Law 1497]. *Society and law*. 2011, No. 4, p. 39. [in Russian].

¹² SOLOVIOVA, A. *Istoryko-pravovyy analiz vydiv zlochyniv proty vlasnosti na ukrainskykh zemliakh*, pp. 359–364. [in Ukrainian].

¹³ SERGEEVICHV. *Lekcii i issledovaniya po drevnej istorii russkogo prava* [Lectures and studies on the ancient history of Russian law]. Moscow, 2004, pp.312 [in Russian].

¹⁴ FOINITSKY, I. *Kurs ugolovnogo prava. Osobennaya chast: lichnye i imushchestvennye prestupleniya* [The course of criminal law. Special part: Personal and property offenses]. Petrograd, 1916. pp. 190–191. [in Russian].

¹⁵ SOLOVIOVA, A. *Istoryko-pravovyy analiz vydiv zlochyniv proty vlasnosti na ukrainskykh zemliakh* [Historical analysis of criminal liability for crimes against property on Ukrainian lands]. Odessa: GO “Prychornomorska fundaciya práva”, 2013, pp. 145 [in Ukrainian].

¹⁶ MOLEV, G. *Istoriya ugolovnoj otvetstvennosti za prestupleniya protiv sobstvennosti po zakonodatelstvu Rossii*. The history of criminal responsibility for crimes against property under the legislation of Russia. *Concept*. 2014, No. 27, [2017-08-04]. Available at: <<http://e-koncept.com/2014/14817.htm>>. [in Russian].

Mikhail Rosenheim (1820–1887) stressed that the Military Charter was not a translation of some foreign harter, but the result of Peter's independent work on the study and selection the norms of various European military codes.¹⁷

Pavlo Bobrovskiy continued the research and concluded that Peter used the laws of Sweden and, above all, the Military Article of Gustav II Adolf (1621–1632), as amended by Karl XI in 1683. The system of punishments, for example, drawn from Danish military criminal law. However, with all borrowings, the Charter was not a compilation of Western European sources of law, but the result of creative processing, well adapted to the circumstances of the time and the main goals of Peter I.

Arkadij Mankov (1913–2006) rightly pointed out that among the foreign legislation that was used in drafting the Code of the 1720–1725, Swedish law holds the first place. “His influence affected both indirectly – through the use of military-criminal and procedural law of Peter's time (Military Charter, Brief Statutes of the Military and Maritime law) as the main sources, reflecting the influence of Swedish and partially Saxon law ...”.¹⁸ Along with war crimes, the article also provided for liability for property crimes: theft, robbery, destruction or damage to someone else's property, misappropriation, embezzlement of government money; assignment (withholding) of property deposited. Ivan Fojnickij stressed that military articles changed the old terminology; they replaced the former term “Tatba” by the term “theft”.¹⁹ So, the military articles under the influence of German law introduced the concept of theft, as well as robbery, dividing it into robbery with violence, and robbery without violence (art. 185).

At the same time, Ivan Fojnickij emphasized that the method of action was described by the words “steals”, “kidnaps”, but the practice of general courts followed the terminology of the Code, “and when they wanted to say about the theft in the technical sense, they always used the word “tatba”; the word “theft” rather referred to a method of action than to a special type of crime”.²⁰

We highlight that the punishment for appropriation and embezzlement of money of a “sovereign”, or a state, neither depend on the size of the stolen, nor on the place, time, or setting of the crime.²¹

The next source of law that is worth noting is Code of Laws of 1743 (*Prava, po kotorym suditsia malorossiiskii narod; lit. Laws by Which the Little Russian People Are Judged*). This document dates from 1743. Chapter XXIV, art. 8, point 1 states: “thieves,

¹⁷ ROZENHEIM, M. *Ocherk istorii voenno-sudebnykh uchrezhdenij v Rossii do konchiny Petra Velikogo* [Essay on the history of the military court institutions in Russia before the death of Peter the Great]. S.-Petersburg, 1878, p. 67. [in Russian].

¹⁸ MANKOV, A. *Ispolzovanie shvedskogo zakonodatelstva v Rossii pri razrabotke kodeksa 1720–1725 gg.* The use of Swedish legislation in Russia while drafting the Code of 1720–1725. p. 126. [in Russian].

¹⁹ FOINITSKY, I. *Kurs ugolovno go prava. Osobennaya chast: lichnye i imushhestvennye prestupleniya*, p. 193. [in Russian].

²⁰ FEDOROVA, A. *Sistema prestuplenij protiv sobstvennosti po artikulam voinskim 1715 goda* [The system of crimes against property according to the Code of 1715]. *Law and education*. 2015, No. 9, pp. 150–155. [in Russian].

²¹ ELISEEV, S. *Prestupleniya protiv sobstvennosti po rossijskomu zakonodatelstvu XVIII veka*. [Crimes against property under Russian law of the 18th century]. *Sybirskij yurydychnyj visnyk*. 2002, No. 1, [2016-08-14]. Available at: <<https://uristy.ucoz.ru/publ/18-1-0-859>>. [in Russian].

fraudsters steal various things every day and obviously take or run away, for the first time caught on theft – beat, for the second time – cut off the ear, for the third time – cut off the nose”.

In this document, many provisions were related to the protection of agricultural land and domestic animals. As a separate crime recognized the appropriation and mockery of animals.

For a comprehensive historical and legal research, it is necessary to consider documents of the XIX century. According to the “Code of Laws of the Russian Empire” 1832, the following were identified among property crimes: brigandage, robbery, larceny, which differed as theft or fraud. The robbery was understood as an armed attack with the use of force or weapons, accompanied by murder or infliction of grievous bodily harm. The Code knew qualified types of robbery: robbery committed in the church, robbery as an attack on a dwelling, repetitive robbery.

The Code of Law had several features such as responsibility for the theft of documents containing commercial and/or family secrets. There was also defined the complicity and was established the punishment for “connivers and concealers”.

In addition to the Code of Laws, the Penal Code of 1845 (Criminal and Correctional Penal Code) was in effect at that time on the territory of Ukraine. The document contained two separate sections providing the liability for crimes against property. As early as 1836, the lawyers began to work on the creation of the Criminal Code of the Russian Empire. After the publication of the Code of Laws of the Russian Empire, on its basis, was created, the Penal Code of 1845. This is the first codified act in the field of Russian criminal law. The law was in force on the territory of Ukrainian provinces of the Russian Empire in the second half of the XIX – early XX centuries.

The Code of 1845 can be described as a normative act with a large casuistry. This is explained by the fact that the legislator did not use generalizing language, but tried to cover all types of property crimes.²² During the periods analyzed earlier, criminal legislation on crimes against property was also casuistic and gradually developed along with legal studies.

Property crimes under this Code were divided into two main types – property crimes committed against property in public ownership (Section VII. Crimes and misconduct against property and treasury income, articles 584-1006) and property crimes encroaching on the property of private individuals (Section XII. On crimes and offenses against the property of private individuals, articles 2094-22424).

The codes knew all the basic crimes against property that were known to the criminal law of that time, such as theft, robbery, brigandage, misappropriation, embezzlement, fraud in its various forms, destruction and damage to someone else’s property. Thus, Section II “On Offenses Against the Faith and Violation of Protected Ordinances” (Articles 482-262) contains two elements of a crime that encroach on property: blasphemy (article 241 – blasphemy, that is, any abduction of church property and money both from the

²² Svod zakonov Rossijskoj imperii [The Code of Laws of the Russian Empire]. In: *Official Internet portal of legal information* [online]. [2017-08-11]. Available at: <<http://pravo.gov.ru/proxy/ips/?empire&nochache>>. [in Russian].

churches, and from the chapel, the sacristy and the second permanent or temporary church depository) and robbing of dead bodies.

Blasphemy was considered as a qualified type of theft. Vladimir Esipov mentioned that during the theft from the church, the subject of the crime is only property benefits. Blasphemy is a property offence, qualified only for the sign of the special and important place of a crime, and not in any way a crime against the Divine, a Supreme Being that is above a person, society or state.²³ There was an opinion that blasphemy was an artificial crime. At the very beginning, in the Code of 1845, blasphemy was attributed to religious crimes. In accordance with article 252 theft of property from non-Christian churches was qualified as a crime against private property. Robbery in the church was also qualified, the special composition of which (“robberies of the church with violence”), unlike robbery, was directly stated in art. 242. The blasphemy in the form of fraud, although it was not represented in this chapter, was common for judicial practice.

At the same time, Ivan Fojnickij expressed the opposite point of view. He noted that under current legislation, the general concept of property abduction covers theft, robbery in its two forms, brigandage, fraud and blasphemy; moreover, it differs from theft of movable property as an encroachment on property rights is noticeable in two main forms of activity – violence and deception.²⁴

CONCLUSION

From the foregoing historiography and analysis, it is concluded, that Ukraine has several peculiarities of criminal law due to the stay of Ukrainian lands under the influence of various state entities. As a result of such features of the development of the Ukrainian legal tradition, there is no linearity in the development of criminal law norms throughout the territory of Ukraine. The doctrines of property protection were formed in modern Ukraine under the influence of ideas of property existed throughout the history of Ukraine. Notwithstanding the fact that all the acts we discussed are casuistic, they met the needs of the era in which they existed.

The genesis of the criminal law protection of property is divided into the following periods: 1) law of the Rus (IX–XIV centuries); 2) Lithuanian-Polish law (XIV–XVI centuries); 3) law of the Ukrainian Hetman State (XVII – end XVIII v.); 4) dualistic period – Western Ukrainian lands under the influence of Austrian and Austro-Hungarian law (second half of the XVIII century – beginning of the twentieth century); and east of the land under the influence of the law of the Russian Empire (end of XVIII – beginning of the XX century); 5) law during the Ukrainian Revolution (1917–1921 pp.); 6) law of the Soviet period (the first half of the twentieth century and – the end of the twentieth century); 7) modern law (since 1991).

²³ ESIPOV, V. *Gres i prestuplenie, svyatotatstvo i krazha* [Sin and crime, blasphemy and theft]. S.-Pb. A.F. Marx, 1894, p. 180. [in Russian].

²⁴ FOINITSKY, I. *Kurs ugovolnogo prava. Osobennaya chast: lichnye i imushhestvennye prestupleniya*, pp. 286–287 [in Russian].