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Innovations in Teaching Criminal Law

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Abstract*: This article is devoted to identifying the correlation of such categories of conceptuality as the concept, conceptual scheme, conceptual system, conceptual analysis, concept and conceptualization in relation to criminal law. It is noted that in classical science the concept is understood as a preliminary organization of theoretical material, and in criminal law the concept is often identified with theory. The article shows that the development of scientific thought goes through three stages of development: from a concept (initial idea) to a conceptual scheme (a detailed idea), then to a conceptual system (a complete scientific theory). In this context, competing criminal law theories are considered: the concept of the stages of a crime (a contradictory conceptual system) and the concept of types of unfinished crime (a conceptual scheme). The authors introduce the notion of "concept" into the scientific language of criminal law to denote the mental units of criminal law knowledge, which are widely used by the doctrine, as well as enshrined in the criminal legislation. Legislative concepts are the means of constructing criminal law, institutions and other normative blocks. Doctrinal concepts appear in criminal law as a means of interpreting criminal law regulations or are used to formulate new concepts. Concepts of this type function as elements of criminal law in the mode of understanding and explanation. In the process of conceptualization, the mental images of objects that have a criminal legal significance are first objectified as doctrinal concepts, and then enshrined in criminal law as legal concepts.

In conclusion, the authors note that inexperienced postgraduate students rarely use the categories of conceptuality and its parameters fixed in the regulatory material of the Criminal Code in their studies. As a result, such studies constitute a compilation review of the views of others, which unreasonably stands out as new (derivative) knowledge in the absence of a detailed author's concept.

***Keywords*: concept, legislative concept, doctrinal concept, conceptual idea, conceptual scheme, conceptual system, conceptualization, postgraduate education.**

I. INTRODUCTION

The notion of "conceptuality" is not fixed in scientific dictionaries, academic encyclopedias and is not a definite term in contrast to such concepts as "concept", "conceptual scheme" and "conceptual system" [1]. At the same time, this notion, depending on the context, can have at least two meanings: narrow and wide. In a narrow sense, conceptuality is correlated with notions such as "conceptual (scientific) approach" or "conceptual (theoretical) understanding". In a broad sense, the notion of "conceptuality" serves to denote all conceptual manifestations, from the initial scientific idea to the scientific theory [2].

Let us consider some aspects of conceptuality in sectoral law, since insufficient attention is paid to it even in serious scientific works. The fundamental Russian-American monograph, the subject of study of which are the basic concepts of criminal law [3], does not provide an answer in the aspect that interests us. In this voluminous work, there are no definitions of the notions used: "concept", "conceptual scheme", "theory", "conceptual analysis". Meanwhile, it is these notions that need clarification, since sectoral legal experience is experiencing difficulties due to inattention to the structures of conceptuality [4].

II. METHODS

The object of study is the Innovations in Teaching Criminal Law; in the context of the globalization, this process has revealed new opportunities for the application of the systemic method and those methods that serve it – structural and functional analysis. In this study, we used the following methods:

- methods of collection and study of single facts;
- methods of generalization;
- methods of scientific abstraction;
- methods of cognition of regularities;

At the stage of collecting and studying the isolated facts, we used the methods of interpretation of the law by which it became clear what are the benefits Innovations in Teaching Criminal Law; what is the role of Innovations in Teaching Criminal Law.

This article used the method of legal modeling. The modeling process consisted of three stages:

1) formulation of objectives and selection of targets;
2) study of the model and the formulation of conclusions;
3) interpretation (analysis, interpretation) of results and the attribution of the acquired knowledge to the original.

The prognostic method allowed making science-based predictions about the vector, the use of Innovations in Teaching Criminal Law and their application so that their activities have an impact on society as a whole.

The authors also used semantic analysis, which, in conjunction with the above methods, allowed considering in detail the features of Innovations in Teaching Criminal Law.

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III. RESULTS

A. Categories of conceptuality

Let's try to figure out what conceptual categories are like and how they relate to each other, such as concept, conceptual scheme, conceptual system, concept and conceptualization, as applied to criminal law.

It is generally accepted in the scientific literature that a concept is a system of views on something, a basic idea that indicates the goals and objectives of the study, and the ways of its implementation [5]. This definition shows that the term "concept" has two meanings. In a narrow sense, a concept is a scientific idea that is not deployed into a conceptual system, that is, is not presented in the form of a theory (belief system). In a broad sense, the term "concept" is used to denote a conceptual scheme and scientific theory, that is, a system of scientific views, through the prism of which the studied object and its subject sides are examined.

In classical science, the concept of "concept" is often identified with the concept of "theory" [6]. In such cases, the term "concept" means an incomplete theory in order to emphasize its incompleteness. In addition, the concept is understood as a preliminary organization of theoretical material, and theory as an expanded concept.

In criminal law, there is a tendency to equate the concept of "concept" with the concept of "theory". However, no reservations are made that in classical disciplines the concept of "concept" means an incomplete or non-rigorous theory, and in non-classical science, the term "concept", as a rule, means a conceptual scheme that includes the initial principles of the theory, main categories and concepts. In the science of criminal law, concepts most often appear as an independent form of criminal law knowledge, such as, for example, the concept of the public danger of criminal acts, the concept of an unfinished crime, the concept of innocent harm, and others [7].

Of course, you cannot put an equal sign between these concepts. A concept as a scientific idea is the embryo of a conceptual system, and a conceptual system is a developed scientific idea to the level of a scientific theory. A conceptual scheme is an intermediate link between a concept in a narrow sense and theory (a conceptual system). As a conceptual phenomenon, the scheme is a discrete (with omissions), generalized and approximate (with some assumptions) description of the subjective sides of the object.

B. Concepts and stages of development of scientific thought

The movement of scientific thought proceeds from a concept (initial idea) to a conceptual scheme (a detailed idea) and then to a conceptual system (a complete scientific theory). This position can be schematically depicted by formula: $K_1 \rightarrow K_2 \rightarrow K_3$. As for the conceptual analysis, it should be based on the initial idea (K_1). In any case, such an analysis is secondary, since it assumes the existence of a ready-made text that can be considered by the subject of legal knowledge in the aspect of interest to him [8].

Sectoral legal knowledge involves the allocation within the framework of a specific concept of such elements as the core and periphery. The core of the concept is a basic idea, in accordance with which the conceptual system is built. Thus, in criminal law, the concept of the stage of the crime is traditionally considered the conceptual core of the concept of the stages of the commission of a crime [9]. In accordance with this nodal (nuclear) concept, the stages of a crime are preparation for a crime, attempted crime and a completed crime. This concept over time was supplemented by numerous peripheral provisions: on intent, preliminary criminal activity, completed, unfinished and worthless assassination attempts, and other, often mismatching, modifications of the dynamic elements of the concept of staging [10].

At the initial stage of development of this doctrine, three legally significant circumstances were overlooked:

1) domestic criminal law does not contain the term "stage" and does not use it to characterize preparatory criminal acts, as well as attempted crimes; 2) the allocation of stages is possible only in the finished crime, which goes through certain stages of the implementation of the criminal intent, while the preparation and attempt are involuntarily terminated off-stage acts; 3) as the third stage, contrary to the legislative intention expressed in the institute of an unfinished crime, the "finished crime" is highlighted in the criminal law doctrine.

The indicated conceptual contradictions at first had a latent (unmanifest) character. Subsequently, in the process of developing the peripheral provisions of this concept, the conceptual core was gradually eroded, the nuclear and regional provisions were mismatched, and the theory of the stages of the crime was found to be inconsistent. However, the majority of criminal law experts, despite the position of the legislator, who introduced chapter 6 "Unfinished crime" in the Criminal Code of the Russian Federation in 1996 and thereby rejected the old belief system, continue to identify types of unfinished crimes with stages [11].

Currently, the concept of off-stage criminal activity meets the legislative requirements most of all, according to which the preparation, attempt and voluntarily terminated crime are types of unfinished crime [12]. In the indicated concept, a criminal offense ceased due to voluntary refusal, which often was mixed with the act of voluntary refusal, found its place. According to the methodological criteria of this concept, category K_2 (conceptual scheme) can be assigned. This circumstance means that the new concept can be developed up to the K_3 level and in this case will receive an assessment of the completed scientific theory.

C. Conceptual schemes in Criminal Law

The term "concept" comes from latin word conceptus (thought). In the literature, the notion of "concept" is defined in different ways. Some people think that a concept is a notion that expresses the essence of a theory, for example, "law" in the general theory of law. Others identify the concept with the mental image of an object, that is, they understand the concept as a quantum (unit) of knowledge [13]. Conceptologists say that a concept is not a phenomenon, not a thing, or even an entity. Moreover, a concept, despite being close to a concept, is not a concept as such (or a term). A concept is a mental unit that expresses collective experience [14].

In scientific knowledge, in a certain way, an ordered minimum of concepts forms a conceptual scheme. Concepts function inside the formed conceptual schemes in the mode of understanding and explanation [15]. Each concept takes its place at one level or another of the conceptual scheme. Moreover, concepts of one level are usually concretized at other levels. It is rightly noted in the literature that concepts are used as means organizing methods of cognition of reality [16]. In criminal law, concepts act as a means of constructing criminal law norms, institutions and other normative blocks. Concepts get their own substantiation in systems wider in relation to them, that is, within the framework of specific concepts. Moreover, the concept has such a property as correlation with the problem, to which the concepts related to the problem are called to respond [17].

Criminal legal concepts in accordance with the source of their consolidation can be divided into legislative and doctrinal. The legislative concepts in criminal law are the mental units used in the criminal law that have criminal legal significance. Such concepts are, for example, a sane person (Article 19 of the Criminal Code of RF), insanity (Article 21 of the Criminal Code of RF), a person with a mental disorder that does not exclude sanity (Article 22 of the Criminal Code of RF). It is quite natural that the number of legislative concepts is limited by the framework of the normative text. The functional burden of key legislative concepts is that they are used as headings of articles of the Criminal Code of RF, for example, in Art. 21 of the Criminal Code of RF, and the headings of criminal law regulations (Article 22 of the Criminal Code of RF). In some cases, legislative concepts may not have a terminology in the text of the criminal law, for example: "failed incitement (part 5 of article 35 of the Criminal Code of RF). In such cases, the mental image of the criminal object expresses the doctrinal concept.

In accordance with legislative textology, the texts of criminal law orders have two levels: superficial (constructive) and deep (conceptual) [18]. The presence of a superficial level of regulatory texts of the Criminal Code of the Russian Federation necessitates reference to existing legislative and doctrinal concepts, since their combination forms the conceptual apparatus of criminal law. Legislative concepts are constructive elements of criminal law prescriptions and, as such, create the possibility of an in-depth (conceptual) interpretation of regulatory texts [19].

IV. DISCUSSION

Doctrinal concepts, in some cases, act as a means of interpreting criminal law prescriptions, in other cases they are used as a means of forming new concepts. For example, Art. 19 of the Criminal Code contains the legislative concept of "sanity", and the doctrinal concepts are full, incomplete and limited sanity. These concepts are used as a means of creating the concept of limited sanity of persons with mental disorders, referred to in Part 1 of Art. 22 of the Criminal Code.

The doctrinal concepts used in the doctrine of complicity, along with legislative concepts that form the core of the conceptual apparatus of criminal law science, are units of criminal legal knowledge that, unlike legislative concepts, are regularly updated, modified and replaced by other concepts. In this regard, doctrinal concepts are not amenable to strict accounting and many of them form an archive of science, such as, for example, the concepts of "gang", "block", "complicity of a special kind", "provoked excess" [20]. In modern criminal law literature, the number of new doctrinal concepts related to the institution of complicity in a crime is relatively small, because most criminal law phenomena are conceptualized in the process of theoretical research and legislative activity.

V. CONCLUSION

The conceptualization in question here is a way of using empirical data, providing their theoretical understanding and thereby making it possible to move from primary criminal law concepts to the development of appropriate conceptual schemes. In the process of conceptualization, the mental images of objects of criminal law value are first objectified as doctrinal concepts, such as, for example, the concepts of "subject of criminal responsibility", "third parties used to commit a crime", "a person who facilitated the commission of a crime", and then they are transformed into legislative concepts: "subject of crime" (part 4 of article 34 of the Criminal Code of RF), "person who committed a crime through the use of other persons" (part 2 of article 33 of the Criminal Code of RF), "accomplice" (part 5 of article 33 of the Criminal Code of RF). Existing criminal law concepts of the institution of complicity in a crime are closely related to the doctrine of complicity and various conceptual approaches.

Since this article is devoted to the conceptuality of criminal law, we consider it necessary to draw attention to the fact that in the science of criminal law, in some cases, instead of the term "concept", the term "doctrine" is close in meaning (latin docere — doctrine). In such cases, the notion of "criminal law doctrine" is relevant to the concept of "criminal law concept", but at the same time emphasizes the inviolability of the corresponding concept. The last thing to note: a common drawback of sectoral legal knowledge is its conceptual non-reflection. The categories of conceptuality, its parameters, fixed in the normative material, in many cases by beginning researchers are not sufficiently reflected and are not taken into account. As a result, such non-conceptual and, accordingly, non-methodological studies constitute a compilation of other people's views and traditional points of view, unreasonably posing as new (derivative) knowledge.

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