

**Scientometric Characteristic of Theses on Criminal Law Defended At the
Universities of the Russian Empire (1815-1917)**

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Abstract

There are analyzed the works of scientists who defended their criminal law theses at the universities of the Russian Empire. The chronological scopes of the research are limited by the date of defense of the first and the last theses on criminal law which are known to the authors. The territorial scope of this article covers the limits of the Russian Empire.

Keywords: criminal law, dissertation research, the Russian Empire, universities, statistics, scientometric data.

Introduction

The relevance of the paper is that in modern legal science there is no generalizing research on criminal law in the master's and doctoral theses of universities of the Russian Empire. At the same time, it should be noted that one of the authors of this article [1], as well as A.D. Makiev [2] studied some issues of crime and punishment in the dissertation research of universities of the Russian Empire.

When studying catalogs of master's theses and doctoral dissertations defended in Russia, prepared by G.G. Krichevsky [4], A.N. Yakushev [5], as well as the Russian State Library [6], it became clear that only 80 candidates out of 590 people who received master's and doctoral degrees of laws, defended their theses on criminal law. It is about 14% of the the total number of persons who got academic degrees for the period from 1814 to 1918.

Unfortunately, statistics on awarding of academic degrees are represented without Dorpat (Yuryev) University, as scientific specialties [7, c.4] were not specified in Je.P. Ojssar's dissertation catalog [3]. However, the mentioned dissertators defended for a total of 90 theses. Numerical variation can be explained by the fact that some applicants defended their doctoral dissertation after receiving a master's degree and it took place after a certain period of time.

The Main Part

Among 90 already mentioned dissertation research on criminal law, 58 (64%) master's theses and 32 (36%) doctoral dissertations were defended at the Universities' Faculties of Law in the Russian Empire.

The geography of theses defense on criminal law is the following [8]: Dorpat (Yuriev), Kazan, Kiev, Moscow, Novorossiysk, St. Petersburg, Tomsk, Kharkov Universities.

The first thesis on criminal law was defended in 1815 at Kharkov University by V.F. Titarev ("The Nature of criminal laws"). The last dissertation was defended in 1917 in Tartu (Yuryev) University by V.N. Shiryaev ("Bribery and *lihodatelstvo* in connection with the general doctrine of malfeasance").

As a rule, in the same place where a master's thesis was defended, a doctoral thesis was traditionally defended too (L.E. Vladimirov, Kharkov University; A.K. Vulfert, Moscow University; G.S. Gordeenko, Kharkov University; M.V. Dukhovskoy, Moscow University; A.S. Zhiryaev, St. Petersburg State University; A.F. Kistyakovsky, Kiev University; G.E. Kolokolov, Moscow University; V.N. Palauzov, Novorossiysk University; A.A. Piontkovsky, Kazan University; N.N. Rosin, St. Petersburg State University; N.D. Sergeevsky, St. Petersburg State University; V.V. Sokolsky, Kiev University; N.S. Tagantsev, St. Petersburg State University; D.G. Thalberg, Kiev University; I.J. Foinitsky, St. Petersburg State University).

Among the master's and doctoral theses on criminal law the following main sections [9] can be distinguished thematically: "**Criminal Law**", "**Criminal Procedure**", "**Judicial Statistics**".

It is necessary to note that in the pre-revolutionary period Russian science of criminal law as the substantive law had not been separated from the criminal procedure (the formal law) for a long time. Criminal procedure as a form of implementation of criminal law began to develop actively only after the judicial reform in 1864 when Judicial Settlements, Regulations of Civil Proceedings, Regulations of Criminal Proceedings, and Regulations of Punishments were established.

Under the section of "Criminal Law" dissertators researched the following topics [10]:

- **criminal policy** – 3 theses (A.M. Bogdanovsky "Young offenders. The issue of criminal law and criminal policy"; S.K. Gogel "The role of society in the fight against crime";

M.P. Chubinskiy “Sketches of the criminal policy. The concept, the history and the basic problems of the criminal policy as an integral part of science of criminal law”);

- **elements of criminal law** – 7 theses (S.I. Barshev “Conclusions at the science of jurisprudence”; Y.I. Barshev “Dogmatic and critical interpretation of so-called criminal theories: theses”; S.M. Budzinsky “Elements of criminal law”; G.S. Gordeenko “What is scientific criminal jurisprudence in Russia nowadays?”; G.S. Gordeenko “Analysis of the basic principles of science of criminal law”; V.D. Spasovich “Textbook of criminal law”; V.F. Titarev . “On the content of criminal laws”);

- **research schools of criminal law** – 5 theses (A.K. Vulfert “Anthropological and positive school of criminal law in Italy” Issue 1; A.K. Vulfert “Anthropological and positive school of criminal law in Italy” Issue 2; M.N. Gernet “Social factors of crime”; D.A. Dril “Juvenile offenders. Study on human crime, its factors and the means to combat it”; G.S. Feldstein “Main currents in the history of science of criminal law in Russia”);

- **the history of the development of several institutions of criminal law** – 15 theses (L.S. Belogrits-Kotlyarevsky “On larceny-theft by Russian law”; L.S. Belogrits-Kotlyarevsky “Crimes against religion in the most important countries of the West”; A.M. Bogdanovsky “The development of the concepts of crime and punishment in Russian Law before Peter the Great”; S. O. Bogorodsky “On the philosophy of criminal law of the ancient and new peoples”; N.S. Vlasiev “On the imputation according to the principles and theory of ancient Russian Law”; F.F. Depp “On the punishments existed in Russia before tsar Alexei Mikhailovich”; N.D. Ivanishev “On mulct for the murder in the ancient Russian and other Slavic legislation in comparison with the Germanic «vira»”; P.D. Kolosovsky “An essay on the historical development of crimes against life and health”; I.A. Maksimovich “On the development of the concept of crime in the history of Russian legislation”, A.N. Popov “*Russkaya pravda* in relation to criminal law”; N.A. Palibin “On the nature of Russian criminal laws of *Russkaya pravda*, *Sudebnic*, and *Ulozhenie*”; N.D. Sergeevsky “Punishment in Russian law of the seventeenth century”; D.G. Thalberg “Forcible theft of property by Russian law (Burglary and robbery)”; A.N. Filippov “On the punishment by the law of Peter the Great, in connection with the Reform”; A.P. Chebyshev-Dmitriev “On the criminal act by Russian pre-Petrine law”);

- **crime** – 9 theses (E.N. Efimov “The nature of crime”; A.S. Zhiryayev “On the participation of some criminals in the same crime”; G.E. Kolokolov “On complicity in the crime. About complicity, in general and incitement, in particular”; G.E. Kolokolov “The doctrine of assassination”, A. Orlov “The attempt to commit a crime on the principles of science and modern legislation”; P.P. Pustoroslev “Analysis of the concept of crime”; N.V. Ratovsky “On the attempt to commit a crime”; N.S. Tagantsev “Recidivism”; A.P. Chebyshev-Dmitriev “Essays on criminal law. The assassination attempt”);

- **the objective side of the crime** – 1 thesis (N.D. Sergeevsky “The importance of causation” Issue 1: Introduction. The theory of causation and its significance in criminal law, Issue 2: The question of causation in the literature of criminal law);

- **the subjective side of the crime. The motive and the purpose of committing a crime** – 3 theses (A.D. Kisiljov “Psychological basis of criminal liability”; G.S. Feldstein “The doctrine of the forms of guilt in criminal law”; M.P. Chubinskiy “The motive of criminal activity and its importance in the criminal law”);

- **concept and purpose of punishment** – 4 theses (A.A. Zhizhilenko “Punishment: its concept and distinction from other law enforcement agencies”; S.P. Mokrinskij “Punishment, its goals and assumptions. Part 1: General and special crime prevention; S.P. Mokrinskij “Punishment, its goals and assumptions” Part 2: The value of the result. Part 3: Casual and

potential moments of action; S.V. Poznyshv "The main issues of the doctrine of punishment").

- **certain types of punishment** – 5 theses (A.F. Kistyakovskiy "Investigation of the death penalty"; A.A. Piontkovskiy "Probation or trial system"; S.N. Timashev "Probation"; A.G. Timofeev "History of corporal punishment in the Russian law"; I.Y. Fojnitskij "Exile in the West in its historical development and current state");

- **the circumstances precluding criminal wrongfulness** – 2 theses (P. P. Pustoroslev "The concept of essential mob law as the criminal law institution"; N.N. Rozin "About necessity");

- **Exemption from punishment and criminal liability** – 2 theses (A.A. Piontkovskij "Conditional release"; V.K. Sabler "The significance of statute of limitation in criminal law");

- **a crime against dignity and honor** – 3 theses (M.V. Dukhovskoy "The concept of slander as a crime against individual honor in Russian law"; N. N. Rozin "The defamation"; B.I. Utin "Defamation according to Russian law since the 18th century");

- **Crimes against life** – 1 thesis (N.S. Tagantsev "On crimes against life in Russian law");

- **property crimes** – 3 theses (I.I. Anosov "Abuse of trust"; V.V. Esipov "Damage to property by fire in Russian law"; I.Y. Fojnitskij "Fraud according to Russian law");

- **crimes against religion** – 2 theses (S.V. Poznyshv "Religious offense in terms of religious freedom. The reform of our legislation on religious offenses"; V.N. Shirjaev "Religious offenses");

- **crimes against the authorities** – 4 theses (A.A. Zhizhilenko "Forgery"; V.V. Sokolskij "The offense of the Mint Charter"; G.L. Fogel "About perjury in general and Russian legislation relating to thereof, in particular"; V.N. Shirjaev ("Bribery and *lihodatelstvo* in connection with the general doctrine of malfeasance");

In the "**Criminal Procedure**" section the relevant sub-sections can be as follows:

- **Preventive measures** – 3 theses (A.F. Kistjakovskij "How to suppress the accused's attempts to evade investigation and trial"; P.I. Ljublinskij "Personal liberty in criminal proceedings. Measures to prevent the justice by accused"; V.V. Mikljashvskij "The way of representation of the accused to the court and preventive methods to evade investigation and trial");

- **Participants in criminal proceedings** – 7 theses (L.E. Vladimirov, "The Importance of medical experts in criminal proceedings"; L.E. Vladimirov, "Jury trial. The conditions for jury trials actions and the method of evidence development"; A.G. Krivorotov "The essay about the importance of witnesses in criminal proceedings on the principles of Roman and Russian legislation"; I.V. Michajlovskij, "Basic principles of criminal court organization"; V.N. Palauzov "The form of the peoples' participation in the criminal justice system"; V.N. Palauzov "Questioning jurors by Russian law"; M.P. Jasinskij "Lithuanian Chief Tribunal, its origin, organization and competence");

- **evidence in criminal proceedings** – 2 theses (S.G. Erofeev "Discourse on the evidence of criminal offenses and the properties of evidence in general and in particular on the Russian legal"; A. S. Zhirjaev "Theory of evidence");

- **judicial acts** – 4 theses (S.M. Budzinskij "The power of judicial decisions in civil and criminal proceedings and the mutual influence of these processes, mainly on the laws of the Kingdom of Poland"; G.V. Demchenko "Judicial precedent"; M.V. Dukhovskoj "Property offenses according to solutions of township courts"; E. Ja. Nemirovskij "The correlation between sentence and accusation");

- **other issues of a procedural nature** – 4 theses (A.V. Rezanov “The oath in criminal matters”; V.V. Sokolskij “The main points in the history of indiscriminate search”; D.G. Thalberg “Legal action in criminal trial or the coupled process”; L.Ja. Tauber “The complaint of the victim when the crime is unofficial”).

Section “**Judicial Statistics**” contains only a dissertation by N.A. Nekljudov «Criminal statistical studies. Study 1: Statistical research of physiological values of people of all ages in relation to the crime”.

The merit of G.G. Krichevskij and A.N. Jakushev is the establishment of some official opponents during the defence of some theses and whose opinion predetermined the further fate of candidates for a degree. For example, we can recall the fate of the dissertation research of A.G. Timofeev “History of corporal punishment in Russian law”, in which the official opponent A.Ja. Shpakov played the negative role.

Studying the statistics of opposing of dissertation research on criminal law, we can conclude that quantitatively the participation leaders were: I.Ja. Fojnitskij (6 times), M.V. Dukhovskoj (5 times), L.S. Belogrits-Kotljarevskij, A.D. Kisel'jov (4 times), A.F. Kistjakovskij, G.E. Kolokolov, N.D. Sergeevskij (3 times), I.E. Andreevskij, S.I. Barshev, L.E. Vladimirov, N.V. Davydov, V.P. Danevskij, A.A. Zhizhilenko, A.A. Leshkov, V.A. Nazabitovskij, A.I. Paljumbetskij, A.A. Piontkovskij, S.V. Poznyshev, N.N. Rozin, N.S. Tagantsev, L.Ja. Tauber (2 times).

The rest of the scientists (A.S. Alekseev, K.D. Antsiferov, S.O. Bogorodskij, N.H. Bunge, S.I. Victorskij, Ju.S. Gambarov, V.M. Gordon, N.A. Gredeskul, E. Grigorovich, G. Gube, G.V. Demchenko, N.A. Zverev, V.V. Ivanovskij, P.E. Kazanskij, D.I. Kachenovskij, V.L. Legonin, D.I. Mejer, N.I. Miroljubov, P.N. Mrochek-Drozdovskij, P.A. Prokoshev, A.N. Stojanov, A.A. Fedotov-Chekhovskij, G.S. Feldstein, G.L. Fogel, N.M. Tsytovich, A.P. Tchaikovsky, A.P. Chebyshev-Dmitriev, M.P. Chubinskij, G.F. Shershenevich A.Ja. Shpakov) were opponents for the thesis defence 1 time.

It is an interesting fact that in certain cases, the opponents on scientific specialty “Criminal Law” were scientists defended their master's and doctoral theses on other scientific specialty. For example scientists defended his theses on the scientific specialty: **civil law** (Ja.S. Gambarov, V.M. Gordon, N.A. Gredeskul, G.F. Shershenevich), **political science** (N.H. Bunge), **state law**, (A.S. Alekseev, I.E. Andreevskij, N.A. Zverev, V.V. Ivanovskij, P.N. Mrochek-Drozdovskij, A.N. Stojanov, A.Ja. Shpakov), **international law** (V.P. Danevskij, P.E. Kazanskij), **international jurisprudence and diplomacy** (V.N. Leshkov), **political economy** (N.M. Tsytovich), **jurisprudence** (D.I. Kachenovskij, D.I. Mejer, A. Paljumbetskij). And it is due to the highest level of their professionalism.

In some cases, the opponents were scientists without any degree: K.D. Antsiferov, S.I. Victorskij, E. Grigorovich, G. Gube, N.V. Davydov, V.L. Legonin, N.I. Miroljubov, V.A. Nazabitovskij, P.A. Prokoshev, A.A. Fedotov -Chekhovskij, A.P. Tchajkovskij. This fact can indicate their high credibility as experts in the field of criminal law, even in the absence of a scientific degree.

Conclusion

Concluding the study on master's and doctoral theses devoted to the criminal law, we summarize some preliminary results:

1) the priority by the number of defended theses on criminal law belonged to the St. Petersburg (26 diss.) and Moscow (21 diss.) universities;

2) the main problems researched by the candidates for a degree in their works were questions of material and formal law. Among the topical issues of substantive law there were

questions on history of development of some criminal law institutions and crime issues. Among the formal law topical issues there were the issues of the participants' institute in criminal proceedings;

3) in the pre-revolutionary period the scientists had stable scientific relationships on the basis of the same university;

4) interdisciplinary communication evolved and deepened between scientists from different fields of science.

Conflict of Interests

The author confirms, that the given facts do not have the conflict of interests.

Gratitude

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References

Loba V.E. *Doktrina o nakazanii v dissertacionnyh issledovanijah universitetov Rossijskoj imperii : genezis i razvitie: diss. ... kand. jurid. nauk* [The doctrine on punishment in the dissertation research in universities of the Russian Empire: the genesis and development. Cand. Jur. Sci. diss.] Belgorod, 2010. 184 p.

Makiev A. D. *Istorija učenij o prestuplenii: dis. ... kand. jurid. Nauk* [History of doctrines about the crime.. ... Cand. Jur. Sci. diss.]. Makhachkala, 2006. 172 p.

Ojssar Je. P. *Dissertacii, zashhishhennye v Tartuskom universitete 1802–1918: bibliograficheskij ukazatel'* [Theses defended at Tartu University 1802-1918]. Tartu, 1973. 180 p.

Krichevskij G. G. *Magisterskie i doktorskie dissertacii, zashhishhjonnye na juridicheskikh fakul'tetah universitetov Rossijskoj imperii (1755–1918)* [Master's and doctoral theses defended at the law faculties of universities in the Russian Empire (1755-1918)]. Stavropol, 2004. 226 p.

Jakushev A. N. *Magisterskie i doktorskie dissertacii po ugovnomu pravu universitetov Rossijskoj imperii: bibliografija, oglavlenija, polozhenija i vyvody* [Universities masters' and doctoral dissertations on criminal law in the Russian Empire: a bibliography, contents, statements and conclusions]. Stavropol, 2006. 190 p.; *Svodnyj katalog kandidatskih i doktorskih dissertacij po istorii nauki, zashhishhennyh v Rossii (SSSR) (1794–1999): bibliograficheskij ukazatel'* [The Catalogue of candidate and doctoral dissertations on the history of science, defended in Russia (Soviet Union) (1794-1999)]. Nevinnomyssk, 2000. 20 p.; *Svodnyj katalog kandidatskih i doktorskih dissertacij po istorii nauki i istorii istoricheskij nauki, zashhishhennyh v Rossii i SSSR (1936–1994 gg.): hronologicheskij ukazatel'* [The Catalogue of candidate and doctoral dissertations on the history of science and history of history science, defended in Russia and the USSR (1936-1994 gg.). Chronological index]. SPb., 1994. 17 p.

Katalog kandidatskih i doktorskih dissertacij, postupivshih v Biblioteku im. V. I. Lenina i Gosudarstvennuju central'nuju nauchnuju medicinskuju biblioteku. Gosudarstvennaja biblioteka im. V. I. Lenina [Catalogue of theses of Lenin Library and the State Central Scientific Medical Library / National Lenin Library]. Moscow, 1946-1991; *Jelektronnyj katalog avtoreferatov s 1988 po 1997 g. i dissertacij s 1994 po 1997 g.* [Electronic Catalogue of abstracts from 1988 to 1997 and dissertations from 1994 to 1997]. Moscow, 2002.

Jakushev A. N. *Magisterskie i doktorskie dissertacii po ugovnomu pravu universitetov Rossijskoj imperii: bibliografija, oglavlenija, polozhenija i vyvody* [Universities masters' and doctoral dissertations on criminal law in the Russian Empire: a bibliography, contents, statements and conclusions]. Stavropol, 2006. 190 p.

All scientists of law faculties of universities in the Russian Empire equally made a great contribution to science, so we arranged universities alphabetically.

The basis of thematic classification is a modern structure of criminal law, the process of judicial statistics as optimally structured.

The proposed division is quite conditional as a number of dissertation research was devoted to both questions of criminal policy and problems of criminal law science, questions on history of criminal law and purely theoretical questions.

[Safronova, E.V., Loba, V.E.](#) «Dangerous condition of person» as criminal term. [Criminology Journal of Baikal National University of Economics and Law](#). Volume 2014, Issue 3, 2014, pp. 10-17

(Table 1) Distribution of dissertation research at universities

№	Name of University	Number of theses defence	
		Master's	Doctoral
1.	Dorpat (Yuriev) University	1	1
2.	Kazan University	5	3
3.	Kiev University	9	5
4.	Moscow University	15	6
5.	Novorossiysk University	2	2
6.	St. Petersburg University	14	12
7.	Tomsk University	1	0
8.	Kharkov University	11	3
Total:		58	32