

Володимир Андрійович Журавель

Національна академія правових наук України
Харків, Україна

Йошіке Курумісава

Школа права
Університет Васеда
Токіо, Японія

КРИМІНАЛІСТИКА В СИСТЕМІ НАУКОВИХ ЗНАНЬ

Анотація. Зміни в соціальному, політичному і економічному розвитку суспільства сприяють розвитку наук. Криміналістика не є винятком. Тому в роботі розглянуто генезу та сучасний стан наукових поглядів щодо характеру міжнаукових зв'язків криміналістики, сутності її природи, визначення місця у системі наук. Наголошено на тому, що зазначені проблеми взаємозв'язані між собою і залишаються одними з найбільш дискусійних у загальній теорії криміналістики. Встановлено, що вітчизняна криміналістика розвивається поступально, має закономірну зміну системи, перехід її від одного стану до більш досконалого. Констатовано, що протягом історії розвитку науки криміналістики висловлювалися різні погляди щодо її природи. При цьому неодноразово змінювалися не лише наукові концепції, а й особисті погляди окремих учених. Автор звертає увагу на те, що до тепер учені-криміналісти не дійшли до узгодженої позиції з цих питань. Криміналістика передбачає використання творчого підходу, ситуаційної зумовленості, наявності альтернативи в обранні певних шляхів, засобів, методів чи прийомів. Встановлено, що ефективність розслідування грабежів та розбоїв залежить від правильного визначення слідчої ситуації; висунення та відпрацювання усіх можливих версій; організації взаємодії слідчого з оперативними підрозділами. Тому вона і пов'язана з різними науками. На сьогодні співіснують дві основні наукові концепції щодо природи криміналістики, за однією з них криміналістика визнається спеціальною юридичною наукою, а за іншою – наукою синтетичного (інтегрального) характеру. Зроблено висновок, що криміналістика, виходячи з предмета дослідження, її функцій і завдань, інтегрує в собі знання юридичних, технічних та природничих наук. При цьому криміналістика є єдиним сплавом знань, а не сукупністю наук, оскільки в ній не можна виділити суто правові та природничо-наукові або технічні розділи, тобто комплекси знань як якісь фіксовані структури, що зайвий раз пересвідчує про синтетичний (інтегральний) характер її походження.

Ключові слова: природа криміналістики, диференціація та інтеграція знань, міжнаукові зв'язки, юридичні науки, синтетичні науки.

Volodymyr A. Zhuravel

National Academy of Legal Sciences of Ukraine
Kharkiv, Ukraine

Yoshiike Kurumisawa

School of Law
Waseda University
Tokyo, Japan

CRIMINOLOGY IN THE SYSTEM OF SCIENTIFIC KNOWLEDGE

Abstract. Changes in the social, political and economic development of society contribute to the development of sciences. Criminology is not an exception. The genesis and the current state of scientific views on the nature of inter-scientific links of criminology, the essence of its nature, its place in the system of sciences have been considered. The attention has been focused on the fact that these problems are interrelated and remain ones of the most debatable in the general theory of criminology. It has been established that domestic criminology is developing gradually, has logical change of the system, transits from one state to more perfect state. It has been stated that throughout the history of the development of criminology, different views were expressed regarding its nature. At the same time, not only scientific concepts, but also personal views of individual scientists changed repeatedly. Attention is drawn to the fact that, so far, criminologists have not reached an agreed position on these issues. Criminology implies using of the creative approach, situation conditionality, presence of alternatives when choosing certain ways, means, methods or techniques. It has been established that efficiency of investigation of robberies and brigandage depends on correct determination of an investigative situation; proposing and refining of all possible versions; organisation of interaction of an investigator with operational units. Therefore, she is associated with different sciences. Currently, two basic concepts coexist regarding the nature of criminology, according to one of them criminology is recognised as a special science of law, and according to the other – a science of synthetic (integral) nature. It has been concluded that criminology, based on the subject of the study, its nature and objectives, integrates the knowledge of legal, technical and natural sciences. At the same time, criminology is a unified fusion of knowledge, not an aggregate of sciences, since it is not possible to single out purely legal, natural or technical sections, that is, knowledge complexes as any fixed structures, which once again testifies the synthetic (integral) nature of its origin.

Key words: nature of criminology, differentiation and integration of knowledge, inter-scientific links, legal sciences, synthetic sciences.

INTRODUCTION

The research of specifics of criminology knowledge, finding out its place in the system of sciences and determination of the nature of inter-scientific relations traditionally are the most relevant science-related problems, the solution of which is conditioned by the nature of criminology, the subject of its study, the range of objectives facing this field of knowledge. It should be noted that criminologists have not yet reached agreement on many key issues of the issue under consideration, which once

again proves that criminology is a complex and controversial object in its empirical existence that is not subject to a simple generalisation [1].

Therefore, the state of science of criminology, the degree of formation of its general theory, the productivity of the implementation of tasks and functions necessities to intensify research on the nature of this science, the specifics of its inter-scientific relations, the formation of a generalised scientific position on these problems.

Such legal scholars as R. S. Belkin, A. M. Vasiliev, A. I. Winberg, A. F. Volobuev, I. O. Vozhrin, M. V. Danshin, A. V. Dulov, E. P. Ishchenko, Z. I. Kirsanov, N. I. Klymenko, V. Ya. Koldin, O. N. Kolesnichenko, V. O. Konovalova, G. A. Matyusovsky, V. O. Obratsov, A. R. Rosinskaya, M. V. Saltevsky, P. I. Tarasov-Rodionov, O. G. Filipov, B. M. Shaver, V. Yu. Shepit'ko, O. O. Eysman, O. O. Eksarkhopulo, M. P. Yablokov, I. M. Yakimov and others addressed the essence of the nature of criminology, the specifics of its inter-scientific connections in different years in their studies. At the same time, scientific views on this problematic constantly change, and criminology in different historical periods has been considered natural science, i.e. science of dual (dualistic) nature or jurisprudence. Recently there have been new views on the nature of criminology, for which it belongs to the hybrid sciences, and it is recognised as a science of integral or synthetic nature. By its nature criminology has multidisciplinary inter-scientific connections with a variety of branches of knowledge. At the same time, these links are not limited to purely legal orientation, but related to technical and natural sciences. In this regard, R. S. Belkin noted that the nature of criminology is not a complex of any constituent parts, not mechanical combination of data of various sciences, but deep synthesis, the alloy of knowledge within the subject and content of criminology [2].

2. MATERIALS AND METHODS

Outlined problematic is among researches aimed at solving complicated and topical scientific problems related to figuring out the nature of criminology, its inter-scientific connections, specifics of criminology knowledge, ways and means of scientific enquiry.

In order to achieve formulated purpose, the author used a set of general scientific and special methods of scientific cognition. Thus, using dialectical and historical methods of scientific learning allowed studying of evolution of scientific views on the nature of criminology, specifics of criminology knowledge, their place in the system of sciences and character of inter-science connections. Method of comparison created an opportunity to show the difference between the criteria and arguments presented by scientists in favour of attributing criminology to technical, natural sciences, law and hybrid sciences, that is, the sciences of synthetic (integral) nature. Such kind of research allowed to speak of an alloy of knowledge within the subject and the content of criminology, rather than about their adaptation, adaptation of criminology to own needs and tasks.

Using formal and logical method and systematic and structural method led to the conclusion that scientific connections of criminology with other branches of knowledge are of unilateral and bilateral character, which made it possible to distinguish and organise these branches of knowledge depending on the nature of the impact and the specifics of interpenetration, integration. Method of analysis provided generalisation of existing theoretical knowledge regarding the nature of criminology basing on the specifics of objects of its knowledge, which have a synthetic essence and study of which is impossible without the involvement of knowledge from various scientific fields.

3. RESULTS AND DISCUSSION

3.1 *Scientific conceptions regarding the nature of criminology*

Accumulation of scientific knowledge has led to the fact that criminology has outgrown its potential and gone beyond the bounds of “police science” or “science of crime investigation.” As V. Yu. Shepit’ko emphasises, “means, methods and techniques of criminology are successfully used in other spheres (operational search, judicial, prosecutorial, expert, advocacy), or allow establishing facts laying beyond criminal law phenomena (use of criminology in civil, arbitration (economic) or administrative processes)” [3]. In this regard, V. G. Goncharenko and V. S. Kuzmichov considered criminology as an interdisciplinary legal applied science [4; 5].

Such scientists as O. Yu. Golovin, A. F. Volobuev, V. O. Konovalov, G. A. Matusovsky, A. S. Podsbyyakin, O. G. Filippov, V. Yu. Shepit’ko, M. P. Yablokov and some others support the view that criminology is legal science of applied character or special legal discipline. In particular, M. P. Yablokov considers criminology as special legal science of applied nature [6], and O. G. Filippov stresses that the use of certain provisions of other sciences by criminology, including natural and technical ones, can in no way call into question its legal nature [7].

The supporters of the considered scientific concept in support of their position point to such arguments: a) criminology is legal science because its subject and objects of cognition are in the field of legal phenomena; b) criminology of legal science because its service function, tasks it solves are related to the legal sphere of activity of state bodies, to legal proceedings (investigation, trial); c) all recommendations developed by criminology for practice, are of strictly expressed legal nature, based on the law corresponding to its spirit and letter; they are designed in order to provide scientific assistance to investigators and to contribute to judicial authorities in finding the truth in a case; d) the legal nature of criminology manifests itself in the normative and legal function inherent in it as a branch of jurisprudence, under the influence of which many scientific recommendations of criminology are introduced in the content of legal norms; e) criminology is associated with many sciences – both social and technical – but these links are mostly individual and local, while the basis for criminology is law, jurisprudence, investigative and judicial practice [8]; e) historically, criminology was born within the limits of the legal and criminal-procedural science [9]; g) recommendations

of criminology are addressed to entities whose activities are solely legal, has legal regulation and nature; h) the future of criminology is only a legal application [1].

In view of the above, the special literature correctly drew attention to the fact that the essence of the legal nature of criminology is mainly due to the legal scope of its knowledge and the necessity to respect the law in the activities for the disclosure and investigation of criminal manifestations. At the same time, it is necessary to clearly delineate the scope of criminology knowledge and the source (nature) of its origin. In this regard, it is advisable to consider the nature of the science of criminology basing on the specifics of the objects of its knowledge. These objects have a synthetic essence, and their study is impossible without the involvement of knowledge from various scientific fields [10].

Analysing this state of affairs, R. S. Belkin mentioned that arguments of scientists in favour of the legal nature of criminology are controversial and do not give grounds for an unambiguous conclusion. In support of his opinion, he gives the following arguments:

1. Not the whole subject and not all objects of cognition of criminology are in the field of legal phenomena. For example, not all patterns of the mechanism of crime, criminal activity and especially occurrence of information about a crime and its members are in the field of legal phenomena. Some of them are patterns of any activity in general, patterns of the process of reflection, which are general in nature and do not depend on the scope of their actions, manifestations.

2. Criminology cannot be regarded as a legal science only in view of the fact that its official function and tasks, which it solves, belong to the legal field of activity of state bodies and to legal processes.

3. Not all recommendations developed by criminology for practice are of legal character, based on law, correspond to its spirit and letter.

4. Is it possible to consider the connection of criminology with other, non-legal sciences, “individual and local”, and law, legal science, law enforcement practice – its main “fertile ground”?

That is why, in the opinion of R. S. Belkin, it is necessary to speak of an alloy of knowledge within the subject and the content of criminology, rather than about adaptation of data of other sciences by criminology, that is integral nature of criminology [9].

This view of R. S. Belkin was supported by T. V. Averyanova, O. Kh. Volynsky, Yu. G. Korukhov, V. P. Lavrov, O. R. Rosinskaya, who emphasised that it is impossible to distinguish in criminology purely legal and natural science or technical sections, knowledge complexes as some fixed structures. It is the alloy of knowledge but not totality of sciences; it is the science of the synthetic nature but not complex (since complexing implies combining of certain knowledge, not merging). Possibilities of criminology in solving legal problems directly depend on its ability to accumulate achievements of other sciences and provide their use for the disclosure and investigation of crimes [11; 12; 13].

Change of scientific paradigm regarding the nature of criminology has been perceived ambiguously by criminologists. Thus, in the opinion of O.Yu.Golovin, non-legal nature of criminology largely changes the perception of its system, and therefore such views of scientists cause serious objections [14]. O.O. Eksarkhopulo is convinced that the synthetic nature of criminology knowledge should not be considered as a ground for changing the place of criminology in the system of sciences. It must still be classified as the legal science [15].

Consequently, at the present time, two basic scientific concepts concerning the essence of the nature of criminology coexist: 1) the well-established, traditional, in which criminology is a special legal science; 2) innovative, which regards criminology as a science of synthetic (integral) character that “fully corresponds to the current trends in the transition from disciplinary research methods to problem-oriented, the use of ideas and methods of some sciences by others, the formation of new branches of knowledge, the creation of a universal scientific picture “[16].

3.2 Specifics of inter-scientific connections of criminology with other branches of knowledge

The multidimensional character of criminology, the diversity of its inter-scientific relations, the specifics of their implementation allows concluding that the scientific connections of criminology with other branches of knowledge are of two varieties: (1) unilateral is when criminological research uses data of other branches of knowledge without retroactive effect on the development of the latter criminology, that is, it refers only to the relationship of application; (2) bilateral is when data of other sciences find their transformation not only in criminological research, but also achievement of criminology has a reverse effect on these sciences, that is, it refers to the interpenetration, integration of scientific knowledge.

The first variety include the inter-scientific connections of criminology with philosophy, logic, ethics, psychology, sociology, science of management, prognostication, computer science, as well as such natural and technical sciences as physics, chemistry, biology, physiology, anthropology and others. As the special literature noted, philosophical categories contribute to understanding of the place and role of the scientific fact in the process of knowing the truth, they reflect the new, unknown to science connections and relations between the phenomena that science studies. Without addressing philosophical categories, it is impossible to build such criminological theories as forensic identification, diagnostics, causality and others [9]. In particular, the theory of forensic identification is based on two fundamental notions – equation and similarity, the mechanism of trace formation – on a feature and property, the formation of the expert’s conclusion – on the probability and reliability. In this case, criminology can serve for philosophy only as a practical application, illustration of its theoretical developments.

Criminology uses also methods of formal logic in its researches [17] – analysis and synthesis, deduction and induction, analogy, generalisation, modelling, abstraction and

others, in order to form recommendations concerning investigative, court, expert and operative and search activity on building and testing versions, reconstruction of a situation and circumstances of an event. In addition, technical means, tactical techniques and methodological recommendation developed within criminology should meet criteria of ethic, i.e. to be moral [18;19].

The special field of relations of criminology is psychology – general and forensic. Data of this branch of knowledge is actively used in development of tactical and forensic techniques and recommendations. Some of them are the basis of formed criminological doctrines (theories), for example, doctrine on versions [20], the method of committing a crime and the corresponding to it skills [21]. V.Yu. Shepit'ko systemised tactical techniques on the basis of application of certain psychological criteria [22]. Psychological positions are also basis to form a tactic of conduct of certain investigative (search) actions, solving mental tasks faced by an investigator, a judge, an expert, a staff member of the operational units, and the establishment of psychological contact between participants in criminal proceedings.

Criminology uses sociological methods mostly to collect and process empirical data. Among the methods for collecting primary information, widespread methods are: the generalisation of materials of criminal cases (criminal proceedings), interviewing practitioners (written (questionnaires) and oral (interviewing), content analysis (text research). To establish statistical connections between objects that is researched correlation analysis is used. It is about the establishment of correlations between the elements of forensic characteristics of certain types of criminal offences and the construction on this basis of typical versions, serving as appropriate benchmark for investigators in the implementation of a specific criminal proceeding [23].

Criminology is closely tied to science of management, the provisions of which are implemented in the formulation of recommendations for the organisation of investigations of criminal acts in general and the scientific organisation of the work of the investigator [24]. In particular, in modern conditions, it is impossible to organise an investigation qualitatively and effectively, especially an investigation of multi-episode criminal procedures, without the use of managerial principles and approaches to solving these problems. In addition, the scientific organisation of work of an investigator is a key to the success of pre-trial investigation, saving time and procedural resources, especially during the period of adaptation of investigators to the substantially changed domestic criminal procedural doctrine.

Prognostics and informatics are relatively new fields of inter-scientific relations of criminology. Prognostics is the methodological foundation for the formation of criminological theory of forecasting, is considered as the basic, maternal science for the implementation of branch forecasting in this area of knowledge. Principles and methods of prognostics is determinative to forecast the development of science of criminology and its research objects in the future [25]. Criminology does not stand aside from the process of informatisation and application of the latest information technologies in its

research, which are either specially designed or adapted to the needs and tasks of criminology. For example, in order to ensure the exchange of information between the registration arrays of various types of accounting through the use of computer technology, development of effective information retrieval, information and reference, information modelling and information and consulting systems [26-29].

Close relationships with natural and technical sciences are inherent in criminology. And this is no accident, because one of the functions of criminology is transformation, creative processing and adaptation of the achievements of these branches of knowledge in order to create new scientific product. Thus, basing on fundamental researches of physics, chemistry, microbiology, and mechanics, the such approaches of criminology as optical, ultraviolet, infrared, luminescent, electron, X-ray, atomic microscopy operate, such as emission, spectral, laser, chromatographic, titrimetric analysis, etc. are used. According to the figurative statement of R. S. Belkin, this is a real manifestation of the “expansion” of natural and technical sciences in judicial proceedings [31]. And the main means of ensuring the implementation of this expansion, the direct channel of penetration of information from these areas of knowledge to criminal proceedings is criminology.

Integrative connections of criminology are manifested primarily with the sciences of the criminal legal cycle – criminal law, criminal process, criminology, the theory of operative and investigative activities, as well as such special branches of knowledge as forensic medicine, forensic psychiatry, forensic statistics, expert analysis. The sciences of the criminal legal cycle share the same research object that is criminal acts. However, each one of them researches this object from own perspective, that is, has own subject of study, and it is known that the subject and object of research are different concepts and cannot be equated. The philosophical literature notes that several subjects may correspond to the same object, since the nature of the research subject depends not only on what object it reflects, but also on why this object was formed, for solving which problem. The subject can be said to be a special aspect of a real object [32].

The above provisions determine the nature of inter-scientific relations between the studied branches of knowledge. So, for criminology, the concept of crime, the features of its composition, developed in criminal law, is axiomatic. Principles of criminal law classification of crimes serve as a methodological basis for the construction of a forensic classification of them. In identifying the grounds for delimiting the criminal legal and forensic classification of crimes, it should be taken into account that the integration of the sciences of the criminal cycle affects the corresponding unity of their conceptual apparatus, theoretical concepts, problems and ways of their solution. In this regard, criminology organically absorbed a certain amount of knowledge of criminal law nature, which, of course, was useful for its theoretical and applied developments. At the same time, solving specific problems, which are faced by criminology, requires the development of a purely criminological classification of crimes. In addition, criminology on the basis of the study of forensic practice draws the attention

of lawyers to new ways and means of criminal activity, which are appropriate to determine as qualifying signs, and in some cases, criminologists even point to completely new manifestations of criminal activity that have not yet found their legislative settlement. (for example, raiding). That is why criminology is called the doctrine of the realities of criminal law [33].

The mutual task of criminalistics and criminology is the development of means of counteracting a criminal offence. The difference is in the scale of this activity. If criminology determines the state, dynamics, forms and causes of crime and measures for its prevention, then criminalistics develops technical means of prevention, as well as recommendations to the investigator in relation to the prevention of specific types of criminal manifestations. At the same time, it is worth mentioning that intensity of connections between criminology and criminalistics in this aspect recently has begun decreasing in connection with the exclusion of the functional duties of the investigator, prosecutor, judge for the implementation of preventive measures from the current criminal procedural law. If the CPC of 1960 required the pre-trial investigation and trial to establish the causes and conditions that contributed to the commission of the crime (Article 23 of the 1960 CPC) and to make a corresponding submission on their elimination based on these data (Article 231 of the 1960 CPC), then, according to the current CPC, such obligations to the participants in criminal proceedings are not foreseen at all. For some reason, the legislator referred them to the category of secondary and forgot to predict not only in the subject of proof (Article 91 of the CPC), but also in a separate article, which in our opinion is erroneous and needs its normalisation.

However, the current procedural legislation, on the contrary, contributes to implementation of inter-scientific connections of criminology with the theory of operative and search activity implying the procedure of covert investigative actions (Chapter 21 of the CPC). This expands the sphere of application of tactical and criminological techniques and recommendations and disseminates them to secret investigative (search) actions. The development of such methods and recommendations should take place taking into account the provisions of the theory of operational and investigative activities.

Traditionally, the tightest inter-scientific connection of criminology is manifested with criminal procedural law, because criminology is considered to be the praxeology of the criminal process. “The criminal process, emphasises Y.P. Ishchenko, offers normative models, sets certain limits, but does not reveal how this should be done. The process defines the most general form, certain abstractions. While criminology fills them with the necessary content” [34]. In this case, the technical means, tactical techniques and methodical recommendations developed by criminology must comply with the rules of the current Code of Criminal Procedure. In turn, scientific criminological concepts and practical recommendations contribute not only to optimising the procedure of pre-trial investigation and judicial proceedings, but also to improve criminal proce-

dural law. On the contrary, gaps in the legislation, the unconstitutionality of certain provisions, the presence of contradictions negatively affect the development of the necessary criminological means, techniques and recommendations.

Unfortunately, it is necessary to state that the current Criminal Procedure Code of Ukraine is not devoid of certain disadvantages, controversial provisions that do not facilitate the implementation of inter-scientific relations of the criminal process with criminology.

CONCLUSIONS

For today, there are legal and integral paradigms concerning the nature of criminology. As it is seen, the coexistence of these paradigms is to a certain extent forced; and it is explained, on the one hand, by a purely pragmatic motivation to attribute criminology to the legal sciences, but on the other hand, by that now there are well-known division of sciences into the natural, technical and humanitarian, but there is no such a kind of science as synthetic science (integral) character. But this state of affairs, in our opinion, is temporary and in the future, in the conditions of successful formation of the class of integral sciences, it will find its solution in favour of the latter. In the work it is established that psychology is a special field of criminology connections. Because it allows developing tactical and criminological techniques and recommendations. Data of these sciences contributes to development of criminological technical means, tactical techniques and methods of investigation of a certain types of a crime related to the assignment of cause of death, time of death, the severity of bodily injuries, the presence of mental illnesses, which prevent a person from correctly understanding the significance of his/her actions, managing them and predicting their consequences (medical element of insanity), significant deviations in the healthy psyche, intellectual age of a person, the presence of a state of a physiological affection or its simulation, and solving of many other issues of great importance to establish the truth. At the same time, criminology not only uses data of these sciences, but also helps to determine focuses of relevant forensic, forensic psychiatric and forensic psychological research. It has been established that criminology has close relations with the science of management and methods of formal logic. Since the scientific organisation of a work of an investigator is a guarantee of the success of the pre-trial investigation.

Criminology is also connected with such legal sciences as civil and civil procedural law, administrative and administrative procedural law, criminal executive law, etc. Criminology has already gone beyond the cycle of criminal science. Recommendations of criminology are essential not only for the investigation of crimes. This also concerns the possibility of using special knowledge in a civil or administrative process, conducting various court actions, full fixation of court proceedings by technical means, etc.

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Volodymyr A. Zhuravel

Doctor of Juridical Science, Professor
Full Member (Academician) of NALS of Ukraine
Chief Scientific Secretary
National Academy of Legal Sciences of Ukraine
61024, 70 Pushkinskaya Str., Kharkiv, Ukraine

Yoshiike Kurumisawa

Professor
School of Law
Waseda University
169-8050, 1-104 Totsukamachi, Shinjuku-ku, Tokyo, Japan

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