PREPRINT

DIXI

Comparative method in criminal law as a tool of legal research and education

El método comparativo en el derecho penal como herramienta de investigación y educación jurídicas

Método comparativo no direito penal como uma ferramenta de pesquisa e educação jurídica

Dmitriy Kamensky[1]
Andrii Vlasov[2]
Valentyna Hrankina[3]
Olha Sharmar[4]
Yuliia Danylevska[5]

Received: May 20th, 2025
Accepted: July 2nd, 2025
Available: December 5th, 2025

How to cite this article:
Kamensky, D., Vlasov, A., Hrankina, V., Sharmar, O. and Danylevska, Y. (2026). Comparative method in criminal law as a tool of legal research and education. DIXI, vol. 28, n°. 1, january-june 2026, XX-XX. DOI: https://doi.org/10.16925/2357-5891.2026.01.02

Research article. https://doi.org/10.16925/2357-5891.2026.01.02

[1] Doctor of Legal Sciences. Professor of the Department of Criminal Law and Criminology at the National Academy of the Security Service of Ukraine (Kyiv, Ukraine).
E-mail: dm.kamensky@gmail.com
ORCID: https://orcid.org/0000-0002-3610-2514

[2] Candidate of Legal Sciences. Associate Professor of the Department of Criminal Law and Criminology at the National Academy of the Security Service of Ukraine (Kyiv, Ukraine).
E-mail: andriivlasov6@gmail.com
ORCID: https://orcid.org/0009-0009-8095-240X

[3] Doctor of Philosophy in Specialty 081 "Law". Associate Professor of the Department of Criminal Law Disciplines at Kryvyi Rih Educational and Research Institute of Donetsk State University of Internal Affairs (Kryvyi Rih, Ukraine).
E-mail: granckina@ukr.net
ORCID: https://orcid.org/0000-0002-9010-2777

[4] Candidate of Legal Sciences. Associate Professor of Law. Associate Professor of the Department of Criminal Law of the National Academy of Internal Affairs (Kyiv, Ukraine).
E-mail: azov.readings@gmail.com
ORCID: https://orcid.org/0000-0002-9123-8668

[5] Candidate of Legal Sciences. Senior Researcher. Head of the Doctoral Studies at the Donetsk State University of Internal Affairs (Kropivnitskiy, Ukraine).
E-mail: yuladan83@gmail.com

Abstract

The study explores the comparative method in criminal law as a crucial tool for legal research and education. The authors examine its application in different legal traditions, while pointing out significant differences between common law and continental law approaches. They argue that globalization has heightened the need for comparative legal studies, as nations increasingly interact and adapt legal principles across jurisdictions. However, the research highlights challenges, particularly the strong differences in criminal law systems, shaped by historical, cultural, and political factors. The paper employs key methodological tools, such as analysis, synthesis, and modeling, which help structure comparative legal research. It also emphasizes the role of comparative law in overall legal harmonization and reform, while providing some insights into how legal systems define crimes, determine liability, and apply punishments. The authors conclude that comparative criminal law should not exist in isolation but as part of broader comparative legal studies, thus further contributing to the development of criminal law theory and practice. This research paper is particularly relevant in the context of Ukraine's legal integration with European and other world legal systems, demonstrating how comparative methodology can inform national legal reforms and improve the effectiveness of criminal justice systems worldwide.

Keywords: Metodología comparada; derecho penal; delito penal; jurisdicción; educación jurídica.

Resumen

Este estudio explora el método comparativo en el derecho penal como una herramienta crucial para la investigación y la educación jurídicas. Los autores examinan su aplicación en diferentes tradiciones jurídicas, observando diferencias significativas entre los enfoques del derecho consuetudinario y el derecho continental. Sostienen que la globalización ha aumentado la necesidad de estudios jurídicos comparados, ya que las naciones interactúan y adaptan cada vez más los principios jurídicos en todas las jurisdicciones. Sin embargo, la investigación destaca los desafíos, en particular la fuerte distinción nacional del derecho penal, determinada por factores históricos, culturales y políticos. El documento emplea herramientas metodológicas clave, como el análisis, la síntesis y la modelización, que ayudan a estructurar la investigación jurídica comparada. También, enfatiza el papel del derecho comparado en la armonización y la reforma jurídica general, proporcionando información sobre cómo los sistemas jurídicos definen los delitos, determinan la responsabilidad y aplican los castigos. Los autores concluyen que el derecho penal comparado no debería

existir de forma aislada, sino como parte de estudios jurídicos comparativos más amplios, a fin de contribuir al desarrollo de la teoría y la práctica del derecho penal. Este documento de investigación es particularmente relevante en el contexto de la integración jurídica de Ucrania con las normas europeas e internacionales, y demuestra cómo la metodología comparativa puede informar las reformas jurídicas nacionales y mejorar la eficacia de los sistemas de justicia penal en todo el mundo.
Palabras clave: Metodologia comparativa; direito penal; infração penal; jurisdição; educação jurídica.

Resumo

O estudo explora o método comparativo no direito penal como uma ferramenta crucial para a pesquisa e educação jurídica. Os autores examinam sua aplicação em diferentes tradições jurídicas, ao mesmo tempo em que apontam diferenças significativas entre as abordagens do direito comum e do direito continental. Eles argumentam que a globalização aumentou a necessidade de estudos jurídicos comparativos, à medida que as nações interagem e adaptam cada vez mais os princípios jurídicos entre as jurisdições. No entanto, a pesquisa destaca os desafios, particularmente as fortes diferenças nos sistemas de direito penal, moldados por fatores históricos, culturais e políticos. O artigo emprega ferramentas metodológicas importantes, como análise, síntese e modelagem, que ajudam a estruturar a pesquisa jurídica comparativa. Ele também enfatiza o papel do direito comparado na harmonização e reforma jurídica geral, ao mesmo tempo em que fornece alguns insights sobre como os sistemas jurídicos definem crimes, determinam a responsabilidade e aplicam punições. Os autores concluem que o direito penal comparado não deve existir isoladamente, mas como parte de estudos jurídicos comparativos mais amplos, contribuindo ainda mais para o desenvolvimento da teoria e prática do direito penal. Este artigo de pesquisa é particularmente relevante no contexto da integração jurídica da Ucrânia com os sistemas jurídicos europeus e de outros países, demonstrando como a metodologia comparativa pode informar as reformas jurídicas nacionais e melhorar a eficácia dos sistemas de justiça criminal em todo o mundo.
Palavras-chave: Metodologia comparada, educação jurídica, direito penal, infração penal, jurisdição.

I. INTRODUCTION

Within criminal law science, comparative method is a research tool that systematically analyzes and compares different jurisdictions or countries' criminal laws, criminal code provisions, principles, and prosecution practices. This method seeks to identify similarities and differences, to understand the practical reasons for such variations, and derive educated conclusions in order to inform legal theory, reform, or harmonization efforts.

Obviously, the meaning and practical value of the comparative research method, and not merely in legal education, has significantly increased in the modern globalized environment. For example, for the purposes of the substantive criminal law comparison, three major areas of multijurisdictional research can be outlined: 1) definition of crimes — examining how different legal systems define various offenses, such as theft, assault, or cybercrime; 2) elements of offenses — analyzing necessary components that constitute a particular crime in different jurisdictions; 3) penalties and sentencing — comparing the types and range of sanctions imposed for similar crimes across different countries.

Apart from the purely academic significance of the discussed legal research method, its educational importance is also self-evident. In particular, the authors of this paper regularly refer to legal comparison and its meaningful results when taking courses on criminal law, criminology, and criminal procedure. As an example, the concept of white-collar crime, which has become a widely used legal term, originated in American legal and sociological discourse in the late 1940-s and since then was gradually implemented into the national criminal laws and academic courses. Today, the legal concept of white-collar crime is researched and taught at law schools in the United States, Europe, Asia and other parts of the world (Lutsenko *et al.,* 2023).

Among other points, this study reveals the lack of a systematic approach to applying the comparative method in criminal law across different legal traditions. It highlights the imbalance in how common law and continental law systems engage with comparative analysis, with the former being much less open to adopting foreign legal concepts.

The research aims to explore how legal systems can effectively integrate comparative analysis despite their inherent differences. It seeks to understand the methodological challenges of comparative criminal law and how globalization affects harmonization of legal principles.

With increasing legal harmonization due to globalization, nations — especially those undergoing legal reforms, like Ukraine — must align their criminal law frameworks with

international standards. This paper provides some valuable insights into the challenges and benefits of such integration.

We will now discuss comparative methodology tools for both researching and teaching criminal law. Particular attention will be paid to the difference in using this method in civil and common law jurisdictions.

II. METHODOLOGY

In addition to the obviously widely used comparative method, several research methods have been employed in this paper, including the modeling method, method of analysis synthesis, and dogmatic method. Together, they have enabled a comprehensive study of comparative criminal law, including its advantages and shortcomings.

The modeling method has allowed us to provide a theoretical background for the research of comparative methods in criminal law. Using it as a thought experiment, we demonstrated how comparative elements in criminal law research and teaching provide a better understanding of similarities and differences in national criminal laws in various jurisdictions. Comparative 'modeling' is a promising legal research method, especially within discussions of distinct criminal law systems. We view the key advantage of such academic modeling in the integrity of legal research.

Analysis and synthesis are fundamental methods used in legal research to examine, understand, and draw conclusions about legal phenomena, doctrines, or systems. They are often complementary, with analysis breaking down complex legal concepts and synthesis combining those elements to create a coherent understanding or argument. Several authors of this paper have previously used these research tools in an article on the topic of national defence degree program in Ukrainian secondary education (Myroshnychenko *et al.*, 2024).

In the field of criminal law comparison, analysis involves breaking down complex legal concepts, rules, or cases into smaller components to understand their individual elements, relationships, and implications. Comparative legal research includes doctrinal, case law, statutory, and policy analysis. Understanding the language, context, and purpose of statutes or legal documents in different countries and comparing elements across jurisdictions or cases becomes an important task in comparative research. As for the synthesis component of comparative legal research, it effectively combines diverse elements, ideas, or findings into a unified framework to form a coherent observation, argument, or conclusion. In the area of legal research, synthesis provides for: 1) integration of case law — such as synthesizing common law precedents to establish general principles or rules; 2)

harmonization of doctrines — bringing together fragmented legal doctrines to provide a consistent interpretation; 3) development of legal theories — formulating new academic theories by integrating diverse legal and philosophical ideas from different jurisdictional backgrounds.

Both analysis and synthesis are essential, interdependent methods in modern legal research. Together, they enable criminal law comparativists to examine legal materials critically, derive meaningful insights, and contribute to legal developments through structured reasoning and creative integration of certain cross-jurisdictional concepts.

Obviously, the method of comparative analyses, which is the focus of our study, has been actively used throughout this research to demonstrate approaches to comprehend various criminal law concepts and principles across several jurisdictions (Movchan *et al.,* 2023). This is not a method of direct application — rather, it has to be explored in different contexts and from perspectives of various legal systems.

We believe that a carefully tailored structure of a comparative research project ensures clarity, objectivity, and persuasiveness of the task at hand.

1. The process begins with defining the research scope and objectives. This involves identifying the specific criminal law concepts, doctrines, or specific provisions to be compared and determining the purpose of the comparison, such as identifying similarities and differences, evaluating effectiveness, or proposing harmonization. Additionally, it is important to establish the theoretical framework, which will guide the study, whether through comparative modeling, functionalism, or structural approach.

2. The next step is selecting the jurisdictions to be analyzed. Several criteria guide this selection. Legal tradition plays a crucial role, since including jurisdictions from different systems — such as common law, civil law, or Islamic law — provides a broader perspective. Geographical diversity is also considered to ensure regional representation and account for socio-political influences. The relevance of each jurisdiction to the research question is yet another factor, with priority given to those with well-developed legal frameworks or ongoing legal reforms that are pertinent to the study. Finally, jurisdictions should be comparable in terms of economic, social, or political context to ensure meaningful analysis.

3. After selecting the jurisdictions, the study requires gathering appropriate legal sources. Primary sources include statutory laws, judicial decisions, constitutions, and legal codes. Secondary sources, such as scholarly articles, legal commentaries, conference materials, textbooks, and reports from international organizations, provide additional insights. To minimize translation mistakes and cultural biases in foreign legal texts, official

translations and authoritative interpretations are used. Additionally, policy documents and legislative histories help to clarify the intent behind specific laws.

4. Once the sources are collected, the comparative analysis begins. This starts with a descriptive analysis of the legal principles, doctrines, and statutory provisions in each jurisdiction. The legal analysis is then broken down into core components through the methods of analysis and synthesis. This involves examining the language, structure, and practical application of legal rules across different systems and identifying key similarities and differences. Comparative modeling is used to construct theoretical models based on legal principles from various jurisdictions, assessing their coherence and applicability.

5. The final stage involves synthesizing the findings and drawing conclusions. This includes identifying trends, patterns, and outliers in the comparative findings, discussing potential areas for legal harmonization or divergence, and providing a structured framework for future research in comparative criminal law. By following this approach, the study maintains methodological balance and produces objective and replicable results that contribute to the broader field of comparative legal research.

Overall, in conducting this study on comparative criminal law, a combination of research methods has been employed in order to ensure a comprehensive and methodologically coherent analysis. Each method serves a specific function within the broader research framework, together contributing to the study's objectivity, depth, and analytical rigor. Together, the carefully chosen methods contribute to a comprehensive study of the area of comparative criminal law, thus ensuring methodological robustness, objectivity, and replicability. The carefully tailored combination of comparative legal analysis, modeling, legal analysis, and synthesis, blended with the systemic approach, allows for a multi-dimensional examination of criminal law across different jurisdictions. As a result, this strengthens the study's theoretical and practical contributions to the fields of criminal law and comparative law, respectfully.

III. Literature Review

The theoretical foundation of this research is shaped by a comprehensive exploration of the available legal scholarship on the topic and the incorporation of prior works by the co-authors into this study.

Back in 1958, famous German-American comparativist Gerhard Mueller wrote in a widely cited paper that including comparative law in criminal law courses is an important approach for promoting a broader learning experience. Such enlightenment is always

beneficial and appeals primarily to scholars, but it also holds significance for practicing attorneys and law students. As respected public members, attorneys' spontaneous remarks on legal matters can significantly influence public opinion. Thus, ignoring the lessons and experiences others have gained through effort and experimentation is politically, economically, and morally unwise. This scholar has added a critical remark: while many foreign nations excel in various aspects of criminal law, partly because they consistently review and learn from other countries' experiences before enacting significant legislation, Americans have absorbed relatively little of their knowledge (Mueller, 1958). Unfortunately, such obvious disproportion in comparative learning and discussion in the United States and elsewhere remains strong.

Over the last several decades, a few first-class treatises on comparative jurisprudence and, more specifically, on various topics of comparative criminal law have been published. It is worth mentioning that today, the number of comparative criminal law studies is growing: domestic researchers are aware of the importance of such scientific research against the background of globalization, European integration, regional cooperation, and other shifts in world legal and political structures. In particular, Ukrainian legal comparativists witness the intensification of the processes of Ukraine's integration into the European and, in general, into the Euro-Atlantic economic, political, and cultural space. The significant number of PhD dissertations and monographs covering academic endeavors to solve specific criminal law issues in Ukraine, particularly concerning the comparative law method, are indicative here.

In a recently published treatise, "Criminal Law: A Comparative Approach", its authors Markus Dubber and Tatjana Hörnle offer readers a thorough and systematic examination of criminal law while focusing on two key jurisdictions: United States and Germany. The book is essentially an accessible resource for both law students and criminal law scholars. It provides a deep comparative perspective on criminal law's fundamental principles and core doctrines. All foreign-language materials have been translated into English, with cases and supplementary materials having been supported by detailed, cross-referenced introductions and notes. The book first explores foundational topics, such as constitutional constraints on criminal law. It then examines key aspects of the general part of criminal law, followed by a selection of offenses in the special part. Alternative approaches to common issues in criminal law are explored throughout, allowing readers to critically assess the doctrines of each system from the perspective of comparative analysis (Dubber & Hörnle, 2014). Overall, we believe this study can serve as a good example of what a pragmatic comparative analysis should look like in the field of criminal law.

One of this paper's co-authors has also spent a few years of his academic career on research projects, which involved the comparison of criminal statutes in Ukraine and the United States, including white-collar crime provisions. In one recent paper, a point has been made that learning how to interpret provisions of statutory precedent criminal law in a "firsthand" manner will create a unique opportunity for Ukrainian criminal law scholars to better understand, analyze, and critically comprehend those interpretative tools and those unique approaches to the rational interpretation of the law and its application in favor of the interests of the entire society, which the judicial branch of the American government has every right to be proud of. Observing the standards of understanding application of the norms of criminal law in other developed nations is, indeed, an extraordinary scientific "asset" of knowledge and ideas, experience, as well as valuable empirical material (Kamensky, 2020).

One could expect that researchers not only on the European side of the Atlantic manifest an active interest in comparative criminal law studies. Today, among representatives of the U.S. law teaching and research communities, proposals are increasingly being made to respectfully include provisions of comparative and international criminal law in the academic disciplines of criminal law and procedure.

Based on the provided legal literature overview, we will argue that despite its self-evident advantages, the comparative method in criminal law is a complicated and multipurpose research tool, which requires a combination of factors and special legal and linguistic skills to be successfully used in theoretical projects and practical situations. Works by other criminal law comparativists will also be referred to in the text below.

Obviously, comparative criminal law research is becoming increasingly prominent, driven by the demands of globalization, European integration, and regional cooperation. Scholars and practitioners alike recognize the benefits of learning from the criminal law systems of other countries, as legal standards become more interconnected in an increasingly globalized world. Recent trends reveal an increase in cross-border studies, particularly between European and U.S. legal systems, as well as growing interest in Eastern European legal transitions, and especially within the context of European Union integration. Researchers are increasingly looking at how criminal law systems can be harmonized or adapted to meet international standards, such as those set by the international criminal law institutions (e.g., the International Criminal Court, the European Court of Human Rights).

While there has been substantial scholarship on comparative criminal law, several gaps remain. For instance, there is limited exploration of how non-Western legal systems — such as those in Asia, Africa, and the Middle East — approach criminal law in comparison to Western systems. These areas are crucial for understanding the global legal landscape since

many of such countries have unique legal traditions — thus, they face specific challenges that are not adequately addressed in current comparative analyses.

Additionally, more research is needed on the impact of technological advances on criminal law across jurisdictions, particularly regarding digital crime, artificial intelligence, and the regulation of emerging technologies. The growing prominence of global digital platforms and the challenges they create for the traditional legal systems demand more focused comparative studies.

IV. Results and Discussion

1. The Development of Comparative Criminal Law as a Science and Law School Course: From the First Studies to Modern Scholarship

When referred to traditional criminal law science, comparative criminal law is a much younger legal discipline, probably just a little over two centuries old.

Back in 1800, in his work devoted to the analysis of the criminal law of the Quran, the outstanding German criminologist and one of the founders of comparative criminal law, P. Feuerbach, was perhaps the first one to refer to the concept "comparative jurisprudence" (in German: *vergleichende Jurisprudenz*) in the sense of a tool of comparing different legislations, a means of obtaining knowledge about the relationship of those legislations with different conditions of peoples according to time, climate, customs and system, which turns simple knowledge into "a source of fruitful reasoning for the legislator, a worthy subject for philosophers and the history of mankind" (Kresin, 2017).

Feuerbach devoted a significant part of his academic life to a large-scale research project devoted to the idea of systematizing criminal laws of different states of the world to create a universal legal picture of the world. Such project was not destined to be implemented; even today, it remains a remote, rather idealistic endeavor.

While famous criminal law scholars of the XIX century were actively and, as time has proven, successfully building the foundations of criminal law in the Eastern European jurisdictions, in Western Europe and in the United States there were also no fewer dynamic processes of understanding the role of this branch of law for the capitalist society, its systematization, even critical comparison. Thus, even a fragmentary appeal to individual works by criminologists of the XIX century eloquently confirms the thesis that the criminal law of that period was no longer an isolated, exclusively national (domestic) "product" as it had been in previous centuries. On the contrary, symptomatic tendencies have been

observed, if not toward the harmonization or reception of its provisions, then at least toward familiarization with foreign law from the scientific and philosophical analysis standpoint.

The second half of the XX century has been marked by the significant growth of comparative legal studies, including criminal law. That makes good sense, since the end of World War II has accelerated cross-jurisdictional exchanges in capital, human resources, culture, and science.

Famous comparativist Gerhard Mueller expressed a sound idea about the feasibility of establishing the American Institute of Comparative Criminal Law, which would involve leading criminal law scholars from top American law schools. According to him, such research institutions could inform the US legal community about the current development of foreign criminal law through the publication of legislative commentaries, writing treatises and scientific articles on comparative criminal law issues, also holding conferences and expert meetings. Familiarization with foreign criminal law would also be useful when teaching a course on American criminal law because, as the reasoning had it, it is better to study individual institutions of the country's criminal law not in isolation but in the context of critical comparison with similar provisions in other nations (Mueller, 1958).

Today one can hardly object to the fact that in the modern world, which is becoming increasingly globalized and interconnected, comparative law is taking on the role of a catalyst for scientific knowledge and the convergence of legal systems.

Indeed, over the past thirty years, the world has taken a huge step towards globalization, largely because of the emergence of the computer and the Internet, the development of global capital markets (which now conventionally begin in the United States, then pass through Brazil or India and end in Asian countries), the international circulation of goods and services, the rapid development of foreign tourism, as well as the emergence of national cultures and arts into supranational positions. Unfortunately, war and its toll on the national economy and society overall has an enormous impact on both globalization trends and world security architecture (Sullivan & Kamensky, 2024).

Globalization of law in general and criminal law in particular has led to the modern phenomenon of harmonization and even mixing of various legal systems. This major shift makes sense since the unification of economic standards and public governance and regulation largely rely on harmonizing national laws. The world map of five major types of legal systems is presented in the figure below.

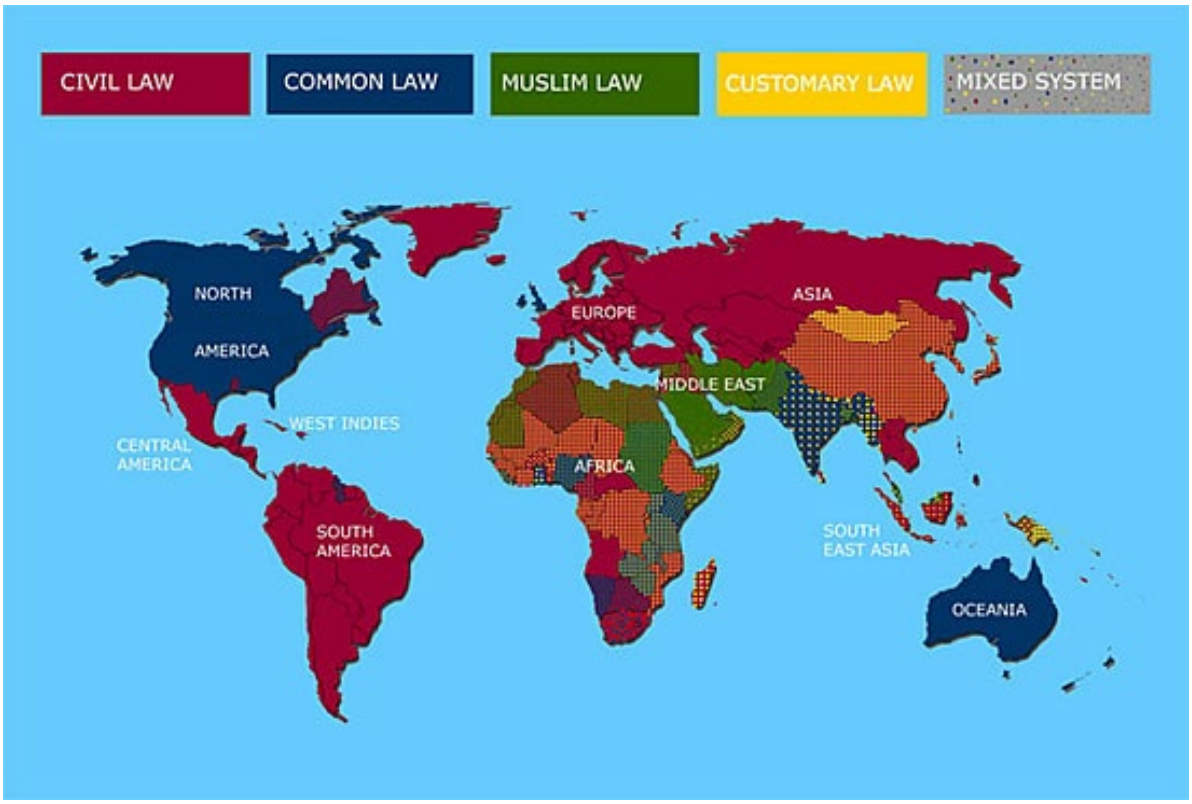

Figure 1. JuriGlobe - World Legal Systems.

Ukrainian comparativist Roman Kharitonov writes that the interaction of sectoral (compartmentalized) legal comparative studies with other legal and humanitarian sciences (in our case, with criminal law) has a mutual character, which is manifested in: the use of material developed within the framework of both sectoral legal comparative studies and other legal and humanitarian sciences; the formulation of issues and a more conscious solution of certain issues that arise in the field of sectoral legal comparative studies or legal and humanitarian sciences; using methodological tools developed both within the framework of sectoral comparative law and other legal and humanities sciences; expanding the subject field of researched issues within the framework of sectoral comparative law and other legal and humanities sciences etc. (Kharitonov, 2016). Thus, we observe a diversified variety of legal instruments in action.

Overall, it is important to remember that comparative criminal law is not only a set of theoretical developments but also a science with quite practical tasks aimed at critically studying and borrowing individual elements of foreign law to improve one's national legal system. Two relevant examples come to mind in this respect. First, the rules on the prohibition of trading in securities based on insider information, developed in the USA and improved by the long-term judicial practice of this country, were later borrowed in a modified version by the European Union member states to improve control over their own stock

markets (by the way, somewhat later, by Ukraine — within the framework of Art. 232-1 of the national Criminal Code). And second, the concept of trade relations between the EU member states is Art 85 of the Treaty on European Union of 1992, which has become a form of adaptation of the well-known rule on the regulation of commerce (the Commerce Clause) of the American Constitution (Schadbach, 1998).

2. The Distinctive Features of the National Criminal Law System as a Challenge to Comparative Law Projects

According to American commentator Vernon Palmer, it is much easier for researchers to critically analyze foreign law since they do not possess the set of stereotypes, cultural and linguistic habits, specific mentality, and even a certain commitment, which are inherent features of domestic legal researchers. In one of his works, he expressed an interesting opinion that as an American, it is much easier for him to study European law since he analyzes it “from a clean sheet”, without the unnecessary “baggage” of national stereotypes that will inevitably accompany a European researcher in the similar situation (Palmer, 2001).

And, vice versa, it can be assumed that European scholars will also find it much easier to study various provisions of American law. The same applies to law professors and law students in criminal law classes elsewhere.

In the text above, we have referred to the pragmatic side of comparative criminal law, which relates to the constant search for best foreign practices in combatting specific types of criminality. However, achieving success in such comparative projects is not granted under real-life conditions. A few serious obstacles can stand in the way.

As a hypothetical, we will refer to the practicality of comparing provisions of Ukrainian and Western European as well as American criminal law. A comprehensive scientific interpretation of the concept of harmonization of Ukrainian legislation, namely its criminal block, with European law was carried out by Mykola Khavroniuk in his widely cited treatise. Based on relevant doctrinal developments, he characterizes the following ways of EU-Ukraine legal harmonization: implementation of provisions contained in international treaties (implementation), borrowing legal ideas and forms of their implementation (reception), offering the international community its legal ideas and forms of their implementation (offering), development and implementation of generally binding legal norms (standardization), general legal orientation, coordination of programs for the development of legislation and concepts, removal of legal barriers, informal borrowing, which is carried out during the discussion of common legal problems at international conferences, development of drafts of agreed (framework and model) laws, consideration of national legislation and

judicial practice of decisions of the ECHR and decisions of the Court of Justice of the EU (Khavronyuk, 2006).

In her research paper on the topic of modern phenomenon of "exporting" American experience of building a national criminal justice model to developing countries, Allegra McLeod refers, in particular, to the active policy by the US government in promoting ideas of democracy and the rule of law, including through the prism of criminal law and process. Such expert and grant support programs are implemented mainly because of the American government and non-governmental funds and institutions: the United States Agency for International Development (USAID), the United States Embassy in Ukraine, the US Department of Justice, the Federal Bureau of Investigation, as well as higher education institutions and international human rights organizations (McLeod, 2010). Today, American legal assistance to many countries in promoting various criminal justice programs includes judicial reform, reform of the Prosecutor's Office, combating corruption and money laundering, conducting expert reviews of draft laws (draft codes), and implementing legal education activities among public representatives.

While conducting a comparative analysis of the existing models of regulating economic relations between the EU member states and individual states in the USA, Professor John Reitz wrote that any comparative researcher faces a logical question: whose law (or rather, its specific part) is better and which of its provisions should be borrowed or, conversely, ignored (Reitz, 2002). Today, many treatises on comparison of various branches of law in these two conditional mega-jurisdictions have been written by European and American authors. For our part, we can safely assume that in the future, when Ukraine finally joins the EU community, having properly harmonized its national legislation with the European one, the law of our state and, in particular, its criminal law branch, will be of big comparative interest to both American and European academic and professional legal communities. To put it differently, the approach to comparative research has sufficient chances to change from the direct formula of "Ukraine — USA" to the much more promising one "Ukraine (part of EU) — USA".

3. Methodological Tools of Comparative Criminal Law: Analytical Review

From the standpoint of research methodology, comparison is a cognitive process that reveals similarities or differences between researched objects. "To compare" means contrasting one element (object, provision, principle, or phenomenon) with another one in order to identify their correlation. The key purpose of the comparison is to obtain new information not only

about the properties of the compared phenomena but also about their direct and indirect relationships and, possibly, the general trend of their functioning and development.

Methodology itself cannot be viewed as a completely separate discipline that is isolated from other sciences. On the contrary, methodology “pervades" both the entire science in its complex and also each of its individual components. Therefore, there are sufficient grounds to consider methodology as the cognitive core of any field of scientific knowledge. The criminal law science and its comparative elements are not exceptions here.

In turn, comparative methodology (comparative legal and comparative typological methods) is used to study all legal phenomena. At the same time, comparative jurisprudence is not identical to comparative legal methodology; it is based on the consistent use of comparative legal and comparative typological methods combined with philosophical, general scientific, and special scientific methods. Oleksiy Kresin adds that such methodological toolkits are subordinate to the specified goal and they form a comparative typological approach. This distinguishes comparative jurisprudence from the theory and history of law, which is based on theoretical and genetic approaches (Kresin, 2019).

Leo Rebet, one of the founders of the Ukrainian comparative law scholarship, in his doctoral dissertation on the topic “Comparative Method in the Science of Law" provided a detailed overview of the philosophical, scientific, and historical aspects of establishing the methodology of comparative legal studies in Europe. As recognized by some modern comparativists, this dissertation can be considered, with certain reservations (i.e., not excluding the possibility of discovering previously unknown publications or manuscripts), the world's first monographic study of the comparative law methodology.

Professor Rebet recognized comparative law as a method, which he called, like many other researchers, the purposeful use of a set of means of conducting scientific research based on predetermined rules, which also involves formulating concepts and forming a systematic understanding of the research subject. According to him, the comparison is not just an inductive method — its goal is not only the accumulation of empirical material but also its further comprehension; in itself, it always strives for synthesis: “the external comparison of different norms without seeking an internal relationship between them is not a comparison". The process of comparison is characterized as external, and “comparative-analytical consideration" is the internal part of the comparison (Rebet, 2017). Obviously, such in-depth analyses and corresponding conclusions can be applied to different branches of private and public law, including criminal law.

While offering a substantive overview of methodological tools in the course of conducting comparative research in the field of criminal law and process, American

researcher John Meyer draws attention to the need for a unified interpretation of not only individual legal terms but also of concepts, official and unofficial rules, and classifications that form substantive foundations of a particular concept in a particular country. The types of unlawful behavior defined by criminal law also differ significantly in different jurisdictions, not to mention the perception of individual types of crimes by societies in various nations. Therefore, a legal comparativist must be very careful, along with thorough preparatory work and skeptical processing of foreign legislative, judicial and statistical materials, when identifying similar features of legal definitions in different legal systems. The author draws attention, among other things, to the need of providing comparative researchers with access to the "primary" legal material of a foreign country in the researcher's language as a guarantee of achieving more accurate and scientifically objective research results (Meyer, 1976).

We share Meyer's approach in that successful comparative criminal law research must involve not only an accurate but also clear (for a local audience) translation of normative and doctrinal material; it is necessary to take into account specific cultural characteristics of society, its mentality, historical aspects of development, and ultimately the system of social values and the general worldview of a given society and its members. When comparing, criminal law provisions and principles must be not just explained legally but also must be placed into the context of the target audience's professional and personal values, life experiences. Indeed, this becomes a very important part of any successful comparative analysis.

In our opinion, the research paper by the American legal scholar F. Wharton, "Comparative Criminal Jurisprudence" (1883), can serve as a good example of a successful and autonomous comparative criminal law study. Based on a comparison of certain provisions of the criminal law of the USA, England, Germany, and France on the grounds of criminal liability, the concept of crime, criminal attempt, incident, guilt, mistake in law and fact, insanity, as well as other related provisions (doctrinal approaches), the author determines the optimal, in our view, balance in terms of the national and foreign material being covered. He successfully compares provisions of criminal law as established in all compared jurisdictions, reveals their similar and distinctive features, and actively turns to the relevant Roman law provisions for historical experience while also offering hypothetical cases throughout the text to illustrate the mechanisms of applying criminal law norms of the compared states to similar criminal cases. Thus, reflecting on the search for a balance between criminal and civil regulation of social relations in a civilized state, the author turns, as an example, to the history of criminal liability for speculation. If commercial mediation was

punishable by criminal law in Ancient Rome and later in medieval England, later these legal prohibitions in regulating free trade were abolished in both states. (Wharton, 1883).

Based on the text of this article, written well over 130 years ago, we can observe the zealous research motivation, although more isolated than today, in the conceptual and quite specific issues of comparative criminal science on the part of researchers on both sides of the Atlantic. Probably, even back then, the best legal minds, some of whom had the opportunity to travel and compare laws firsthand, had experienced a certain “vacuum" in the professional knowledge of the elements of their national criminal laws, which they sought to fill in particular, by referring to foreign legal material and its interpretation by foreign commentators.

Indeed, information obtained from comparative criminal law research can become an incentive for a critical and, as we hope, appropriate rethinking of national law. Comparison enables us to look at our own legal norms and the processes associated with their implementation in a new way through the prism of foreign achievements and shortcomings in solving similar issues of criminal liability and crime prevention. Received analytical information helps illuminate the internal mechanics of a foreign legal system comprehensively. Also, it can be “tailored" to one's own legal culture, thus helping to illustrate different points of view, offer a deeper understanding of legal order, and one's legal consciousness in general, perhaps even a worldview — in other words, to prevent the comparativist's own cultural and professional bias errors.

4. The Role of Comparative Method in Modern Legal Education

Obviously, the comparative method in criminal law can serve as a powerful tool in legal education. It offers students and practitioners a broader understanding of different legal systems, principles, and practices across jurisdictions. It also encourages critical thinking, cross-cultural legal analysis, and the ability to identify both the similarities and differences in how legal issues are addressed in various countries.

As the field of comparative law continues to evolve, its appeal to both bachelor (LL.B.) and master (LL.M.) level teaching is expected to further expand accordingly. There is little doubt that research and advanced study in comparative law will continue to flourish. However, as John Hazard put it decades ago, the role of comparative law in the LL.B. curriculum remains a subject of debate. Those who teach it are firmly convinced of its practicality and importance, as evidenced by numerous scholarly articles and active participation in discussions on the matter. Whether faculty decision-makers responsible for shaping curricula will share this enthusiasm is yet to be determined. To many advocates,

comparative law has already demonstrated its value, particularly in cultivating perceptive and innovative legal professionals — qualities essential in an increasingly complex, interconnected world (Hazard, 1951). Indeed, supporters argue that shaping students' perspectives on fundamental values is no less practical than training them to advise clients.

We are of the opinion that the comparative criminal law method can be effectively used in higher legal education based on the following aspects:

1) *enhancing critical thinking and analytical skills of students* — the comparative method requires students to analyze and compare legal systems, statutes, and case law across different jurisdictions. Students learn to examine how different legal systems approach the same legal concepts, such as criminal responsibility, sentencing, or defenses. This process helps them understand the underlying principles and values that shape criminal law in different contexts;

2) *evaluating effectiveness* — by comparing how different systems address specific issues (e.g., white-collar crime, juvenile justice, or human rights in criminal law), students are encouraged to assess the effectiveness of each system and identify potential improvements or innovations;

3) *cross-cultural legal understanding* — students learn that criminal law is not a "one-size-fits-all" system. On the contrary, it is a highly diversified phenomenon. They gain exposure to different legal traditions (e.g., common law vs. civil law), which helps them appreciate how legal norms and practices evolve in various political, social, and cultural environments.

Even more importantly, law students are able to compare how different legal systems interpret and apply similar legal provisions. By doing so, they can develop a deeper understanding of statutory interpretation and the flexibility or rigidity of laws across various jurisdictions.

Thus, incorporating the comparative method into criminal law education can significantly enhance the intellectual and practical development of law students. By encouraging critical thinking, expanding perspectives, and providing real-world applications, it equips future lawyers with the skills needed to navigate both domestic and international legal challenges.

Indeed, from the legal education perspective, comparative law goes beyond simply learning foreign legal rules; it enhances the understanding of how these rules function within their broader context. This process often unfolds naturally. When a comparative researcher or law student encounters unexpected similarities between legal systems, they may seek to uncover shared historical origins or recent globalizing influences previously unknown to

them. Conversely, discovering unexpected differences may prompt an exploration of the political, cultural, or socio-economic factors that explain these variations (Siems, 2018). Thus, an active, immersive mode of comparison leads to deeper research and understanding.

A deeper understanding of how legal rules are embedded in society can also foster greater tolerance toward different legal traditions and social structures. As a scholar delves further into comparative law, they may develop a broader intrinsic interest in legal systems worldwide. This can lead to the realization that the Western (or Eastern, etc.) conception of law is not universally applicable and to a greater appreciation of the diversity of legal norms across cultures.

Based on our own academic experience, we believe that educators can employ a variety of strategies to integrate comparative law into law school curricula, while overcoming challenges related to resources and linguistic barriers. Ultimately, the comparative method fosters a deeper understanding of criminal law's complexities and also prepares students for the globalized legal landscape with its own complexities, connections and challenges.

V. Conclusions

Based on the results of our research, we were able to formulate several conclusions with respect to the meaning and purpose of the comparative method in criminal law.

Comparative criminal law cannot be discussed separately from comparative law as a legal science and a specific research method. The former is one of the areas, an integrated component of the latter, its integral part, which significantly contributes to the development of the empirical and analytical basis of comparative law as an intellectual legal heritage of each individual state. Performing its own tasks and relying on a unique set of research methods and techniques, a special source base, linguistic originality, and specific connections with other scientific fields, comparative criminal law can be placed at the conditional intersection of the criminal law of two or more compared jurisdictions.

Successful implementation of academic projects in the field of comparative criminal law is associated with serious challenges. A motivated researcher should consider, first of all, the fact that the criminal law in any country traditionally has a paternalistic, nationally distinctive character. This distinctiveness (legal uniqueness) is manifested in the content of the main criminal law concepts (criminal offense, guilt, complicity, punishment, etc.), determined by historical, national, and cultural traditions, the peculiarities of the political system in a given society, its economy and many other factors. As a result of objective factors, primarily of a globalized character, national criminal laws become increasingly

interconnected and harmonized. This prompts us to state a gradual mixing of law at the level of legal families and, more substantively, at the level of individual states.

Methodological instruments of criminal law research should be used flexibly, in a dynamic relationship. At the same time, the types of methods of scientific knowledge, as well as the intensity of their use by any researcher, should undergo significant transformation depending on the subject of research, which can be a provision of the Criminal Code, a separate institute of criminal law, or the interdisciplinary nature of a group of legal norms (for example, in the case of a blanket method of describing the dispositions of individual prohibitions). Similarly, the methodology of a comparative criminal law study will be unique, depending on the types of compared legal systems, considering the specifics of the sources of law and their hierarchy, the influence of judicial decision-making, the peculiarities of law enforcement, and the interpretation of legal provisions.

Finally, there is a potential danger in mechanical copying of the content of criminal law prohibitions provided for by the legislation of other states. This situation occurs in cases where the newly created norms of national legislation do not reflect the key provisions, principles, and legal content of a foreign criminal provision that characterizes a certain type of unlawful behavior but also reproduces the text of a foreign norm identically and "mechanically", without necessary adjustments to local legal context. Such a "mechanical" approach will lead to the fact that foreign criminal law prohibitions will not be consistent with the original legal principles and ideas inherent in the Ukrainian legal system, with those substantive provisions considered established in domestic lawmaking, legal practice, and doctrine.

As for the potential future research directions, the following can be outlined here: 1) methodological challenges in comparative criminal law — investigating the difficulties in applying the comparative method across legal systems with different traditions; 2) globalization and legal harmonization — examining the impact of globalization on the harmonization of criminal law principles and the integration of international legal standards; 3) legal education and the comparative method — investigating the application and impact of the comparative method in criminal law teaching, including the pedagogical challenges and the effect on students' legal skills; 4) comparative criminal law in legal reform — analyzing the role of comparative criminal law in influencing legal reforms, particularly in countries undergoing transitions, such as Ukraine.

To summarise our research above, the comparative method in criminal law is a vital tool for understanding how various societies address similar criminal behavior through national legislators and criminal jurisprudence. It fosters cross-jurisdictional learning,

promotes legal innovation, and contributes to developing better criminal justice systems worldwide.

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