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CRIMES AGAINST MORALITY UNDER COSSACK CUSTOMARY LAW

The Zaporizhian Cossacks were a unique socio-political phenomenon, which undoubtedly had features of exclusivity and was the creator of a new form of Ukrainian statehood. Among the multiple historical and legal phenomena the study of the system of criminal offenses and penalties should be considered very important for jurisprudence. The existing researches do not sufficiently reflect the formation and development of crimes against morality in Zaporizhzhya Sich. As a rule, scientific studies highlight these issues as fragments.

The main tasks are to determine the types of crimes against morality which were regulated by Cossack customary law; to establish the reasons of recognition of the system of wrongful acts as crimes in Zaporizhzhya Sich; to identify the types of punishment which were established for committing these crimes in Zaporizhzhya Sich.

The dialectical method, comparative-historical method, and historical-legal method were used to identify historical patterns of formation and building a system of crimes against morality under the norms of customary law of Zaporizhzhya Sich.

The system of rules of criminal law, which was public, protected the internal order in Sich from criminals, and helped to establish strict discipline and subordination in the Cossack Army. Much attention in the criminal law of Zaporizhzhya Sich was given to offenses against morality and the system of penalties for their commission.

Under the Cossack customary law sexual violence towards women was a serious criminal offense against morality. It involved extremely severe punishments, «because to insult a woman means disgrace to the whole army» [2, p. 131]. Penalties, which were immediately brought into action, depended on the severity of the guilt. The status of women in the culture of the Cossacks superimposed many taboos. According to the custom, as D.Yavornytsky admits, Cossacks did not allow women to come to Sich, and «bringing to the fortress of Zaporizhzhya Sich women, not excluding his mother, sister or daughter, the Cossacks considered a criminal offense leading to the most severe punishment» [5, p. 342] This veto was supported by the high position of religion. The existence of his glorious mother – Sich – and protection of the holy Orthodox faith were the most important things for the Cossacks.

Drinking during the campaign was another type of offenses against morality according to the norms of Cossack law [4]. In this context it should be noted that the rampant alcoholism among Ukrainian Cossacks is a contemporary myth. Such researchers as D. Yavornytsky and J. Novytsky noted the prevalence of Sich Cossacks' asceticism. Cossacks did not drink alcohol, did not smoke tobacco, did not know women, kept to celibate, and at their old age they often became monks in Trakhtemyriv monastery [5], [1]. During the campaign any alcohol was strictly forbidden, but some vodka stock was taken to treat the wounded Cossacks. If any of the Cossacks violated this prohibition he was pretty severely punished and thrown overboard a ship if it was a voyage. Drunkenness was not approved by the «Chief persons»: if koshovyy Sich starshyna noticed this flaw in someone from the officials, they warned him by way of special orders, ordering him to comply strictly with them.

To the crimes against morality in Zaporizhzhya Sich were also related adultery, fornication and the sin of Sodom. Zaporizhzhya Sich has always been considered a carrier of high moral values, especially on family foundations.

The most popular punishment for offenses against morality in the Cossack society was «beating with sticks» [3]. A Cossack was tied to a pole or cannon, a stick was put next to him and anyone from the free Cossack troops could «teach» the negligent companion. After the executions, which often lasted all day, the Cossack bowed and thanked the community for the «teaching».

Also, for offenses against morality a sentence of death by hanging was often inflicted. This type of death penalty was carried out in several ways: the criminal, on horseback, was brought to under the gallows or tree and throwing a loop on his neck, the horse was taken out, and the offender remained on the gallows; the criminal was hung by the feet, upside down. In addition, there was also a qualified form of hanging – for the rib on the hook.

To sum up, the criminal law of Zaporizhzhya Sich involved rather a curious system of offenses against morality whose fixing was explained by a number of reasons: the need to maintain high morale among the Cossacks, the importance of following strict discipline during military campaigns and others.

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