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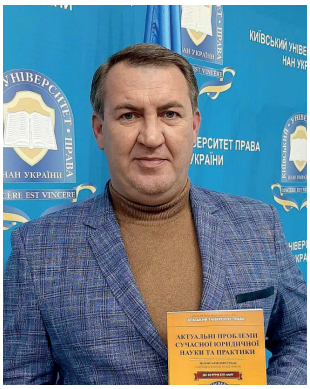
Characteristic Of The Infanticide Concept: The Comparative Aspect

Abstract. The article analyzes scientific papers dedicated to the issues of the murder of a newborn child by his/her mother. Both researchers and practitioners stressed the issue of murders of a newborn child by his/her mother, among them are: Antonian Yu.M., Baulin Yu.V., Borovitinov M.M. Borysov V.I., Hernet M.M. Liubavskyi A.D., Naumov A.V., Nekliudov N.A., Ostapenko L.A., Sainchyn O.S., Semeniuk I.S., Sosnina O.V., Stratonov V.M., Pashchenko O.Iu., Tsybulenko T.D., as well as foreign researchers: Richard von Krafft-Ebing, Iohan Zakharii Platner and others.

As shown by the analysis, during different historical time periods, science constantly changed its opinion and attitude regarding such a social evil as the murder of a newborn child by his/her mother. On the other hand, there are still many unsolved issues, one of which we deem is uncertainty concerning the concepts and definitions of this particular type of crime.

In research papers of multiple scientists, we come across the equation of the infanticide concept with child murder. For a precise definition of the infanticide concept, we analyzed the legislation of the Anglo-Saxon, Romano-Germanic legal system and other countries with a developed legal system, and also countries of the post-Soviet period, where liability for murdering juveniles, minors and newborn children was stipulated. A comparative characteristic of Ukrainian legislation during 1919–2022 has been provided. Provisions of criminal liability for the murder of a newborn child by his/her mother have been studied and difference from other qualified types of murders has been established. A personal viewpoint concerning the concept of deprivation of a person's life has been expressed. It has been proven that the infanticide concept is not a universal concept for a number of reasons: each country uses its own version regarding this criminal activity; in Ukrainian legislation, as a result of various offenses, it is noted that the death of a young child, the fetus of a pregnant woman as well as a newborn child may take place (Part 1, paragraph 2, Article 115 Murder of the Criminal Code of Ukraine); Article 117 Infanticide; Article 134 Illegal abortion, i.e. artificial termination of pregnancy through external intervention in the woman's body, which consequences due to criminal actions are the death of the child and others. Therefore, the generalized term infanticide, in certain cases, is not always appropriate to use, although this concept is quite broad. Thus, in order to understand and comprehend this concept, both theory and practice have been extensively analyzed, since there is no unified point of view as to understanding of when does this life begin that may be taken as a result of crime. After all, from the viewpoint of criminal law and signs of the composition of newborn child murder, the issue of primary and practical importance is not about the content of the human life concept, but about the issue of its beginning. For this reason, we provide several definitions for the concepts of infanticide, murder of a newborn child and murder of a human.

We have come to a generalized conclusion that the beginning of a person's life is laid not from the moment of their physical birth but much earlier. Thus,



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ХАРАКТЕРИСТИКА ПОНЯТЯ ДІТОВБИВСТВО: КОМПАРАТИВІСТИЧНИЙ АСПЕКТ

Анотація. У статті проведено аналіз наукових праць присвячених проблемам вбивства матір'ю своєї новонародженої дитини, Проблемі вбивств, в тому числі і вбивств матір'ю своєї новонародженої дитини приділяли увагу як науковці так і практики, це такі: Антонян Ю.М., Баулін Ю.В., Боровітінов М.М. Борисов В.І., Гернет М.М. Любавский А.Д., Наумов А.В., Неклюдов Н.А., Остапенко Л.А., Саінчин О.С., Семенюк І.С., Сосніна О.В., Стратонов В.М., Пащенко О.Ю., Цибуленко Т.Д. в тому числі іноземні вчені: Ріхард фон Крафт-ЕбІнг, Іоган Захарій Платнер та інші.

Як показав аналіз, наука протягом різних історичних проміжків часу постійно змінювала свою думку та відношення до такого соціального зла, як вбивство матір'ю своєї новонародженої дитини. Проте залишається багато не вирішених проблем, однією з них ми вбачаємо невизначеність відповідно до понять та визначень, саме даного виду злочину.

В роботах різних вчених ми зустрічаємо ототожнення поняття дітовбивства з вбивством дитини. Для детального визначення поняття дітовбивство ми проаналізували законодавство англо-саксонської, романо-германської правової системи та інших держав з розвиненою правовою системою, а також країн пострадянського періоду, де було передбачено відповідальність за вбивства малолітніх, неповнолітніх, новонароджених дітей. Також була проведена порівняльна характеристика українського законодавства у період з 1919 по 2022 рік. Досліджено положення кримінальної відповідальності за вбивство матір'ю своєї новонародженої дитини і встановлено відмінність від інших кваліфікованих видів вбивств. Наведено власну позицію щодо поняття «позбавлення життя людини». Доведено, що поняття «дітовбивство» не є універсальним поняттям, з ряду причин: кожна країна використовує свою версію відносно даної злочинної діяльності; в українському законодавстві внаслідок різних правопорушень може наступати смерть, як малолітньої дитини так і плоду вагітної жінки ч.1 п.2. ст.115 Умисне

we have analyzed the draft of the new criminal code (the part of murder, including of a newborn child).

As a result, the introduced comparative-legal characteristic of concepts definition helps to actualize issues which, according to the author, can become the foundation for subsequent research and advancement of legislation, and thus enhance the activity of judicial, investigative and other agencies: that overall will lead to improvement in human rights protection.

Keywords: murder of a newborn child, mother, infanticide, abortion, child's life, criminal liability.

Introduction. The human right to life is proclaimed in all countries of the world and enshrined in corresponding regulatory acts on human rights as well as guaranteed by almost all constitutions of the world countries (Article 27 of the Constitution of Ukraine). There is even more emphasis on the rights of children, as they cannot fully exercise this right due to their lack of protection. The confirmation of this is the Convention on the Rights of the Child dated November 20, 1989 (amended), approved by Resolution 50/155 of the UN General Assembly of December 21, 1995[1]. The Criminal Code of Ukraine determines legal protection of human life as one of its tasks. Such actions and responsibility for them are provided by relevant rules of the Criminal Code of Ukraine. However, legal regulation does not solve the issue of crime and encroachment on life in particular. After all, the criminal's behavior is determined by anti-social orientation, which takes place under the influence of actions of certain socio-political, economic and socio-cultural conditions.

There is an opinion that in addition to a person's fault in a committed crime, there is also the "fault" of other influencing factors. One of these factors is those of a social nature that result in the emergence of a personal conflict in which we see violence against another person at the end. Sooner or later it will lead to its external manifestation, namely, it will be expressed in violence against another person.

Let's add that, being neglected by a positively oriented social group, a person becomes a member of an informal social group, which social orientation can vary widely, up to committing a crime. This provision should be applied to the understanding of a reason for the premeditated murder of a newborn child by his/her mother in the event when crime subject cocludes that her pregnancy and the birth of a child, for some reason (absence of a future child's father, the subject age, negative attitude of close people to a child's birth), will be a circumstance that will be condemned by people or disrupt the normal course of life for a woman in labor. Stemming from this fact, murder becomes a solution to problems in these cases. The very existence of the thought that a child is unwanted, and therefore the future is also undesirable, sounds pretty wild. As the analysis of history demonstrates, such cases were not isolated, even despite a severe and no less terrible liability. Existence of such a type of murder as murder of a newborn child by his/her mother until the present time calls into question social development, since it seems that a man is not willing to move forward with the development of modern technologies. In our view, there are many reasons. Therefore, this issue necessitates separate research which is insufficiently addressed by both scientists and practitioners. Perhaps one of the reasons is non-disclosure or lack of coverage on this issue, and thus we see a public desire to turn a blind eye to it. And from here unwillingness of scientists to perform research on this phenomenon from criminological, criminal law and other viewpoints follows. Although there are some changes in this direction, in our opinion, they are insufficient.

[1] Конвенція про права дитини від 20.11. 1989 року зі змінами, схваленими резолюцією 50/155 Генеральної Асамблеї ООН від 21 грудня 1995 року.

Let's turn our attention to the fact that when investigating this type of crime, it is vital to define all the needed concepts: in particular, to determine a subjective aspect of a crime, the subject, the moment of intention appearance and a special physiological and mental state of a woman while murder, way of crime commission, trace formation mechanism. There is also a requirement for investigative bodies, procedural manager and the court to establish reasons and conditions that contributed to crime comission, circumstances affected a woman's psyche, which were directly included in the range of circumstances subjected to be proven in criminal proceedings. All this is required to expand theoretical developments and research in corresponding areas bordering on this phenomenon, because mothers have become much younger (today their age is from 14 to 21 years), the time when psyche is quite vulnerable as even a slight negative impact results in suffering; therefore, such women in labor react quite aggressively to any stimuli, for example pain. Aggression can be both controlled and uncontrolled. The following terrible and impressive numbers are rather thought-provoking: out of 150 pregnant women willing to have an abortion, around 100 do not want to have a child at all. According to demographic indicators, the population of Ukraine will increase to 41 million people by 2026. If the institution of motherhood and its social protection are not given priority in society, considreing the consequences of the war, we are on the verge of another demographic crisis. It is vital that the birth of each new child has general social importance, and therefore retaliatory prosecutions could be incentives. Full and all-round protection of childhood should become a responsibility for the entire society, not only the state. Thus, it is required not only to define the concepts that will help to harmonize the legislation but also to implement them efficiently and quickly. All of the above determines the relevance of this topic.

The research regulatory framework is: the Constitution of Ukraine, Criminal Code of Ukraine and other laws of Ukraine. For the purpose of comparative analysis, the author studied (in translation) foreign criminal legislation on encroachment on human life, the Criminal Code of countries that at one time were part of the USSR.

The purpose and main objectives of the research are the theoretical research on this issues using historical, empirical, sociological materials, on the basis of which: to determine essential legal features of such a crime as the murder of a newborn child by his/her mother, followed by the concept definition; to analyze the current criminal legislation of foreign countries for similar types of offences;

Research results. The formation of the infanticide concept in every country of the world, as we stressed above, went through difficult stages, and most importantly, this process has not been completed. Unfortunately, there is no unity in laws of countries; moreover, there are disagreements in scientific research. There is no unity in views among scientists regarding the object and subject of this crime type, and the objective and subjective aspect of a crime accordingly. We have already mentioned[2] it in our publications. As Sosnina O.V. notes, there is no unequivocal position on the issues of the

вбивство КК України, новонародженої дитини; ст.117 Вбивство новонародженої дитини; ст.134 Незаконне проведення аборту, тобто штучне переривання вагітності шляхом стороннього втручання в організм жінки, у яких наслідками злочинних дій є смерть дитини, та інші. Тому узагальнений термін «дітовбивство», в тих чи інших випадках, не завжди доречно вживати, хоча дане поняття досить широке. Тому для усвідомлення і розуміння даного поняття було проведено широкий аналіз як теорії так і практики, оскільки не має єдиної точки зору, з приводу розуміння, коли ж все таки починається те саме життя якого можуть злочинні елементи позбавити. Адже з точки зору кримінального права та ознак складу вбивства новонародженої дитини першочергове та практичне значення має питання не про зміст поняття «життя людини», а щодо питання про її початок. Тому ми надаємо декілька визначень понять «дітовбивство», «вбивство новонародженої дитини» та «вбивство людини».

Ми прийшли до узагальненого висновку, що початок життя людини закладається не з моменту її фізичного народження, а значно раніше. Тому проаналізували проект нового кримінального кодексу, в частині саме вбивства, в тому числі новонародженої дитини.

Отже проведена порівняльно-правова характеристика визначення понять дозволяє актуалізувати питання, які на думку автора, можуть стати підгрунтям для подальших наукових пошуків та вдосконалення законодавства, а відтак покращить діяльність судових, слідчих та інших органів, що в цілому приведе до покращення захисту прав людини.

Ключові слова: вбивство новонародженої дитини, мати, дітовбивство, аборт, життя дитини, кримінальна відповідальність.

[2] Стратонов В.М., Ковтун О.О. Ґенеза кримінальної відповідальності за вбивство матір'ю своєї новонародженої дитини. Проблеми підвищення ефективності кримінальної юстиції України: колективна монографія / Інститут держави і права імені В.М. Корецького НАН України, Київський університет права НАН України; за заг. ред. Ю.С. Шемшученка, Ю.Л. Бошицького. Київ : Видавництво Ліра-К, 2021. С. 624-634.

[3] Ковтун О. О. Окремі елементи криміналістичної характеристики дітовбивства. Криміналістика і судова експертиза: міжвідом. наук.-метод. зб. / Київський НДІ судових експертиз; редкол.: Д. В. Журавльов (голов. ред.), О. Г. Рувін (заст. голов. ред.) та ін. – Київ : Видавництво Ліра-К, 2021. Вип. 66. С. 461-472.

[4] Ковтун О. О. До проблем характеристики об'єкту вбивства матір'ю своєї новонародженої дитини. Актуальні проблеми сучасної юридичної науки та практики: матеріали круглого столу (м. Київ, 1 жовтня 2020 року), Київ Видавництво Ліра-К, 2020. 172 с.

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CHARACTERISTIC OF THE INFANTICIDE CONCEPT: THE COMPARATIVE ASPECT

The article analyzes scientific papers dedicated to the issues of the murder of a newborn child by his/her mother. Both researchers and practitioners stressed the issue of murders of a newborn child by his/her mother, among them are: Antonian Yu.M., Baulin Yu.V., Borovitinov M.M. Borysov V.I., Hernet M.M. Liubavskyi A.D., Naumov A.V., Nekliudov N.A., Ostapenko L.A., Sainchyn O.S., Semeniuk I.S., Sosnina O.V., Stratonov V.M., Pashchenko O.Iu., Tsybulenko T.D., as well as foreign researchers: Richard von Krafft-Ebing, Iohan Zakharii Platner and others.

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In research papers of multiple scientists, we come across the equation of the infanticide concept with child murder. For a precise definition of the infanticide concept, we analyzed the legislation of the Anglo-Saxon, Romano-Germanic legal system and other countries with a developed legal system, and also countries of the post-Soviet period, where liability for murdering juveniles, minors and newborn children was stipulated. A comparative characteristic of Ukrainian legislation during 1919–2022 has been provided. Provisions of criminal liability for the murder of a newborn child by his/her mother have been studied and difference from other qualified types of murders has been established. A personal viewpoint concerning the concept of deprivation of a person's life has been expressed. It has been proven that the infanticide concept is not a universal concept for a number of reasons: each country uses its own version regarding this criminal activity; in Ukrainian legislation, as a result of various offenses, it is noted that the death of a young child, the fetus of a pregnant woman as well as a newborn child may take place (Part 1, paragraph 2, Article 115 Murder of the Criminal Code of Ukraine); Article 117 Infanticide; Article 134 Illegal

criminal-legal characteristic of the murder of a newborn child[3] by his/her mother. The author stresses that, in agreement with the Convention on the Rights of the Child[4], the state must protect not only the rights of a child but also its life. After all, according to the Convention, a child requires special protection and care[5] due to mental and physical immaturity.

Murder should be viewed as a culpable, socially dangerous act provided for in criminal law, which encroaches on the life of another person and results in their death. The social danger of murder lies in the fact that as result of such actions a person is deprived of life: one of the most valuable natural goods. At the same time, there are such consequences as death, which are irreversible. In this connection, the damage caused to a victim cannot be compensated[6]. Therefore, the first thing we should place emphasis on is the time when a person's life starts.

According to doctors, human life is considered to begin from physical childbirth, when the fetus is completely separated from a mother's body and the umbilical cord is disconnected. Death is the moment of physiological death when due to full cardiac arrest and cessation of oxygen supply to cells, an irreversible process of disintegration of cells in the central nervous system that results in brain[7] death begins.

That is, the initial moment of its life is the beginning of physical childbirth, including premature and artificial. The position of equating the beginning of a person's life with the beginning of their breathing leads to doubtful questions: the question of the moment of the beginning of the criminal law protection of a person's life and the question of medical criteria for live births.

The answer to the first question is the basis for criminal liability of people guilty of murdering a child during its birth. Solution of the second question depends on characterization of an act as a completed crime or only an attempt.

The second opinion on the issue of the beginning of life is that the moment of its complete separation from a mother's womb is viewed as the beginning of human existence (such opinion was expressed by M.D. Sharhorodskyi)[8].

According to the analysis performed in Austria, since the 19th century, a distinction was made between the murder of a newborn child by his/her mother and removal of the fetus[9]. In fact, this rule is enshrined in the Criminal Code of Ukraine, Article 134 Illegal abortion[10].

As to removal of the fetus, in agreement with § 144 of the Criminal Code of Austria, it had always been a criminal act that could only be committed with

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3 Сосніна О.В. Кримінальна відповідальність за вбивство матір'ю своєї новонародженої дитини за законодавством держав континентальної Європи. *Вісник Львівського торгівельно-економічного університету*. Юридичні науки. 2018. Вип. 7. С.200-211. URL: http://nbuv.gov.ua/UJRN/nvlkau_2018_7_24.

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5 Сосніна О.В. Кримінальна відповідальність за вбивство матір'ю своєї новонародженої дитини за законодавством держав континентальної Європи. *Вісник Львівського торгівельно-економічного університету*. Юридичні науки. 2018. Вип. 7. С.201. URL: http://nbuv.gov.ua/UJRN/nvlkau_2018_7_24.

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direct intent[11]. It could be accomplished either mechanically or using certain drugs or herbs, and also by stimulating childbirth and carrying out delivery in a way that may result in child death. The object of legal protection in such a case has always been life of an unborn child from the moment of conception to 30 weeks. Concerning infanticide, which was stipulated in § 139 of the Criminal Code of Austria[12], in the understanding of the then legislator, it could be committed both in a mother's womb, in relation to a child after 30 weeks of pregnancy, and outside a mother's womb after a child was born alive[13].

Kh.V. Perepelytsia, summarizing the above, emphasizes that a victim in this type of crime could only be a biological child of a mother-murderer. Furthermore, labor had to begin (or be artificially induced) not earlier than the 30th week of pregnancy or after 7.5 obstetric months (since before that period a child was considered non-viable) and eventually a child had to be alive[14].

Practical experience indicates that time-period of infanticide comission is a mandatory feature of legal characteristic. Article 117 of the Criminal Code of Ukraine highlights that murder takes place "during delivery or immediately after it"[15]. As a result, there is a necessity to differentiate these concepts, as it will help to identify the masking of murder of a child during delivery by natural death. In the majority of cases, infanticide is committed after delivery, which is conditioned by the highly painful and shocked state of a mother while delivery and her physical impossibility to commit a crime[16] at this time.

But cases of murder during delivery also take place. An example is a case when in the process of separating a child from the mother's body, a woman kills a child by squeezing legs. A clearer criterion that can show time limits of "murder during delivery" and "murder immediately after it" in all cases is the fact of a complete separation of the newborn from the mother's body, i.e. the ending of the child passage through the birth canal[17].

Medical examiners interpret the concept of the newborn period somewhat differently than obstetricians and pediatricians. Thus, some obstetricians believe that a newborn baby is the one within 1-3 days of life, others: from the beginning of the first breastfeeding. According to pediatricians, a newborn period begins with the child's first breath and continues for 3-4 weeks after birth[18].

Duration of this period is determined differently by multiple specialists. However, in forensic medical practice, a newborn is considered a child after birth. This forensic medical interpretation of newborns has been accepted for many decades by the courts of the Russian Empire, the former Soviet Union,

abortion, i.e. artificial termination of pregnancy through external intervention in the woman's body, which consequences due to criminal actions are the death of the child and others. Therefore, the generalized term infanticide, in certain cases, is not always appropriate to use, although this concept is quite broad. Thus, in order to understand and comprehend this concept, both theory and practice have been extensively analyzed, since there is no unified point of view as to understanding of when does this life begin that may be taken as a result of crime. After all, from the viewpoint of criminal law and signs of the composition of newborn child murder, the issue of primary and practical importance is not about the content of the human life concept, but about the issue of its beginning. For this reason, we provide several definitions for the concepts of infanticide, murder of a newborn child and murder of a human.

We have come to a generalized conclusion that the beginning of a person's life is laid not from the moment of their physical birth but much earlier. Thus, we have analyzed the draft of the new criminal code (the part of murder, including of a newborn child).

As a result, the introduced comparative-legal characteristic of concepts definition helps to actualize issues which, according to the author, can become the foundation for subsequent research and advancement of legislation, and thus enhance the activity of judicial, investigative and other agencies: that overall will lead to improvement in human rights protection.

Keywords: murder of a newborn child, mother, infanticide, abortion, child's life, criminal liability.

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[14] Там само. С.70.

[15] Кримінальний кодекс України. Науково-практичний коментар : у 2-х томах/за заг. ред. В.Я. Тація, В.П. Пшонки, В.І. Борисова, В.І. Тютюгіна. 5 –те вид., допов. Х.: Право, 2013. 1040 с.

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Oleksandr KOVTUN

CARACTÉRISTIQUES DU CONCEPT D'INFANTICIDE: ASPECT COMPARATIF

Résumé. L'article analyse les travaux scientifiques consacrés aux problèmes de la mère qui tue son nouveau-né. Les scientifiques et les praticiens ont prêté attention au problème des meurtres, y compris les meurtres par la mère de son nouveau-né, à savoir : Antonyan Yu. M., Baulin Yu. V., Borovitinov M. M. Borisov V. I., Gernet M. M. Lyubavsky A. D., Naumov A. V., Neklyudov N. A., Ostapenko L. A., Sainchyn O.S., Semenyuk I. S., Sosnina O. V., Stratonov V. M., Pashchenko O., Yu., T.D. Tsybulenko dont scientifiques étrangers : Richard von Kraft-Ebing, Iohan Zahariy Platner et d'autres.

Comme l'analyse a indiqué, la science au cours de différentes périodes historiques a constamment changé d'opinion et d'attitude à l'égard d'un mal social tel que le meurtre d'une mère de son nouveau-né. Cependant, il reste encore de nombreux problèmes non résolus, dont l'un est l'incertitude quant aux concepts et aux définitions de ce type particulier de crime.

Dans les travaux de divers scientifiques, nous rencontrons l'identification du concept d'infanticide avec le meurtre d'un enfant. Pour une définition détaillée du concept d'infanticide, nous avons analysé la législation du système juridique anglo-saxon, romano-germanique et d'autres États au système juridique développé, ainsi que des pays de la période ex-soviétique, où la responsabilité du meurtre des mineurs, des mineurs et des nouveau-nés a été fourni. Une caractérisation comparative de la législation ukrainienne dans la période de 1919 à 2022 a également été menée. Les dispositions relatives à la responsabilité pénale pour le meurtre d'une mère de son nouveau-né ont été étudiées et la différence avec d'autres types de meurtres qualifiés a été établie. La position individuelle concernant le concept de privation de la vie humaine est donnée. Il est prouvé que le concept d'infanticide n'est pas un concept universel, pour plusieurs raisons : chaque pays utilise sa propre version de cette activité criminelle ; dans la législation ukrainienne, à la suite de diverses infractions, la mort d'un enfant mineur et du fœtus d'une femme enceinte peut survenir, partie 1, point 2. Article 115 Meurtre intentionnel d'un nouveau-né du Code pénal ukrainien ; Article 117 Meurtre

and currently Ukraine[19]. Such recognition of newborns in forensic medicine has a certain valid justification.

A newborn child is a child who still has relevant signs of the fetus, namely: the mother's blood on skin, the presence of an umbilical cord, primordial lubricant, a birth tumor, etc. The existence of at least one of the signs shows signs of a newborn.

However, if we analyze and compare corresponding rules related to the murder of a child, we note that in fact there are several rules as to a newborn child in our Criminal Code: Article 117 Infanticide (murder of a newborn child by his/her mother) during delivery or immediately after it[20], Article 135 Leaving in danger, Part 2 "... actions committed by a mother in respect of her newborn child, unless this mother was in a condition of lying-in", and Part 3 stipulates ".... Any such acts as provided for by paragraph 1 or 2 of this Article, where they caused death of a person or other grave consequences[21]". Even in this case, it is not clear why the evaluative concept of grave consequences follows the death, which can be even more serious than death itself. And also Article 134 Illegal abortion, that is artificial termination of pregnancy through external intervention in a woman's body[22]. That is, active actions aimed at terminating a pregnancy by a person who does not have medical education. Abortion is allowed in our country, in comments we encounter the evaluative concept "under certain conditions"[23]; however, this condition is not mentioned. There are known cases when, for self-serving reasons, doctors offer to have an abortion when a woman is in the 7th month of pregnancy. At most, provided that a person files an application and proves the guilt of the doctor, a guilty person will be prosecuted namely for actions having caused a long-term health disorder.

But also there are rules in which a child's death is a consequence for criminal actions: Article 136 Failure to provide help to a person who is in a condition dangerous to life, Part 2 "failure to provide help to a young child, who is known to be in condition dangerous to life, where such help could have been provided, or failure to inform appropriate institutions or persons of this child's condition, - ...", Part 3 "any such acts as provided for by paragraph 1 or 2 of this Article, where they caused death of the victim, - "[24]; Article 137 Improper performance of duty with regard to children's life safety and health care, Part 2 states "any such actions that caused death of a minor or other grave consequences, - "[25].

In Sweden, the only privileged type of murder is infanticide (Article 3, Chapter 3 of the Swedish Criminal Code dated 1962). A woman who deprives of life of her unborn child at the moment of birth or during delivery, when her state of mind is disturbed or if she experiences severe financial hardship, must be sentenced to imprisonment for infanticide for a term not exceeding 6 years[26]. An interesting fact is that there is no lower limit of punishment.

Thus, according to the law on criminal law in Israel, in compliance with Article 298 Murder, "if a person caused the death of another by a prohibited act or omission, then he is guilty of manslaughter and is liable to twenty years

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19 Судова медицина / за ред. А. С. Сілового. Київ, 1999. 188 с.

20 Кримінальний кодекс України. Науково-практичний коментар : у 2-х томах/за заг. ред. В.Я. Тація, В.П. Пшонки, В.І. Борисова, В.І. Тютюгіна. 5–те вид., допов. Х.: Право, 2013. С. 47.

21 Там само. С. 87.

22 Там само. С. 85.

23 Там само. С. 85.

24 Кримінальний кодекс України. Науково-практичний коментар : у 2-х томах/за заг. ред. В.Я. Тація, В.П. Пшонки, В.І. Борисова, В.І. Тютюгіна. 5–те вид., допов. Х.: Право, 2013. С.89.

25 Там само. С. 90.

26 Уголовнуй кодекс Швеции / Науч. ред.: Н.Ф.Кузнецова, С.С.Беляев; Пер. С.С.Беляева. – СПб.: Юридический центр Пресс, 2001 URL :https://sr.1lib.to/book/2449929/c42404.

imprisonment"[27]. Selection of individual victims of criminal encroachment by the degree of family ties arouses curiosity. Thus, Article 300 Murder notes, a person who fulfills one of the following actions: (1) maliciously caused the death of his father, mother, grandfather or grandmother[28] by a prohibited act or omission. At the same time, mitigating factor is the fact that a person who committed a crime experienced severe psychological stress and was subjected to cruel and long-lasting treatment by one of the members of his/her family who was killed by a person. As can be observed, the circle of relatives is limited, first of all, because it is not about children at all. Article 303 Infanticide answers this question, where the offender, i.e. the mother, is not specified in the title. Therefore, "If a woman by an act or omission maliciously caused the death of her child that had not reached the age of twelve months, and if the balance of her mind was disturbed at the time of the act or omission because she was not fully recovered from the effect of giving birth or because of the effect of nursing after the birth, then – even though the offense, according to its circumstances, constitutes murder or manslaughter – she is liable to five years imprisonment"[29]. That is, in fact, the legislator has equated the murder of a newborn child with murder or premeditated murder, and only in cases of health disorder, these circumstances are viewed as extenuating circumstances. We also see a clear age category of which a newborn baby is: it is 12 months. However, this circumstance may not be given due attention by the court, which may classify these actions as premediatated murder or delivery concealment, or declare a person unconvicted in accordance with Article 19 of the Law on Israel Criminal Law[30] .

Article 311 Birth concealment indicates: "If a person attempts to conceal the birth of a child by secretly disposing of its dead body, irrespective of whether the child died before, at or after its birth, then he is liable to one year imprisonment". That is, the legislator provides that a mother can kill a newborn child during delivery, for example, due to the fact that she refused to attend medical institutions and gave birth at home, which resulted in the death of a 6-month-old child due to its inability to breath. The one who did not report this event shall be prosecuted.

The Criminal Code of the People's Republic of China which was passed on March 14, 1997, amended the law on criminal liability in contrast to a similar law dated 1980. The communist idea was preserved in the new code; nevertheless, the law was devoid of its rhetoric. Secondly, the law moved away from the supervisory role of the Supreme Court, whereas all verdicts were delivered by it before. Also, a rule (Article 26) that stipulated the existence of a criminal group and its management by a principal offender was introduced. That is, the existence of such a subject as an organizer is presupposed. In contrast to Ukrainian legislation and many others, the law provides for criminal liability of legal entities[31]. Analyzing the general part of the Criminal Code of the People's Republic of China, we placed emphasis on § 3 Criminal complicity in Article 25 stating that complicity is an intentional crime committed by two or more persons jointly. If two or more persons committed a crime due to carelessness, they are not viewed as accomplices. Everyone is criminally liable and punished for specific actions he/she committed. Article

d'un enfant nouveau-né ; Article 134 Avortement illégal, c'est-à-dire interruption artificielle de grossesse par intervention externe dans le corps de la femme, dans laquelle les conséquences d'actes criminels sont la mort de l'enfant, et autres. Par conséquent, le terme généralisé infanticide, dans certains cas, n'est pas toujours approprié à utiliser, bien que ce concept soit assez large. Par conséquent, afin de comprendre et de comprendre ce concept, une large analyse de la théorie et de la pratique a été effectuée, car il n'y a pas de point de vue unique concernant la compréhension quand, après tout, commence la vie même que les éléments criminels peuvent emporter. Après tout, du point de vue du droit pénal et des éléments de la composition du meurtre d'un nouveau-né, la question primordiale et pratique ne concerne pas le contenu du concept de vie humaine, mais la question de son début. Par conséquent, nous proposons plusieurs définitions de l'infanticide, de l'infanticide et de l'homicide humain.

Nous sommes arrivés à la conclusion générale que le début de la vie d'une personne n'est pas posé à partir du moment de sa naissance physique, mais bien plus tôt. Dès lors, ils ont analysé le projet de nouveau code pénal, dans la partie du meurtre lui-même, y compris celui d'un nouveau-né.

Par conséquent, la caractérisation juridique comparée de la définition des concepts nous permet d'actualiser des questions qui, de l'avis de l'auteur, peuvent devenir la base de recherches scientifiques ultérieures et d'amélioration de la législation, et ainsi d'améliorer l'activité des autorités judiciaires, d'enquête et d'autres organes, ce qui conduira en général à une amélioration de la protection des droits de l'homme.

Mots-clés : tuer nouveau-né, mère. infanticide, avortement, vie d'enfant, responsabilité pénale.

[27] Закон об уголовном праве Израиля / Предисл., пер. с иврита: магистр права (LL M) М. Дорфман; науч. ред. канд. юрид. наук Н. И. Мацнев. СПб.: Изд-во Р. Асланова «Юридический центр Пресс», 2005. 412 с.

[28] Там само.

[29] Закон об уголовном праве Израиля / Предисл., пер. с иврита: магистр права (LL M) М. Дорфман; науч. ред. канд. юрид. наук Н. И. Мацнев. СПб.: Изд-во Р. Асланова «Юридический центр Пресс», 2005. 412 с.

[30] Там само.

[31] Уголовный кодекс Китайской Народной Республики / Под ред. докт. юрид. наук, проф. А.И. Коробеева, пер. с китайского Д.В. Вичикова. СПб.: Издательство «Юридический центр Пресс», 2001. 303 с.

Oleksandr KOVTUN

MERKMALE DES KONZEPTS DER KINDHEIT: VERGLEICHENDE ASPEKTE

Abstrakt. Der Artikel analysiert wissenschaftliche Arbeiten, die sich mit dem Problem der Tötung des neugeborenen Kindes durch die Mutter befassen, wobei sowohl Wissenschaftler als auch Praktiker dem Problem der Morde Aufmerksamkeit widmeten, einschließlich der Morde durch die Mutter ihres neugeborenen Kindes, wie zum Beispiel: Antonyan Yu.M., Baulin Yu. V., Borovitinov M.M. Borisov V.I., Gernet M.M. Lyubavsky A.D., Naumov A.V., Neklyudov N.A., Ostapenko L.A., Sainchyn O.S., Semenyuk I.S., Sosnina O.V., Stratonov V.M., Pashchenko O. .Yu., T.D. Tsybulenko darunter ausländische Wissenschaftler: Richard von Kraft-Ebing, Johann Zachary Platner und andere.

Wie die Analyse zeigte, änderte die Wissenschaft in verschiedenen historischen Epochen ständig ihre Meinung und Haltung gegenüber einem solchen sozialen Übel wie der Tötung einer Mutter ihres neugeborenen Kindes. Es gibt jedoch immer noch viele ungelöste Probleme, von denen wir eines sehen, ist die Unsicherheit in Bezug auf die Konzepte und Definitionen dieser besonderen Art von Kriminalität.

In den Arbeiten verschiedener Wissenschaftler begegnen wir der Gleichsetzung des Begriffs Infantizid mit dem Mord an einem Kind. Für eine detaillierte Definition des Begriffs Kindstötung haben wir die Gesetzgebung der angelsächsischen, romanisch-germanischen Rechtsordnung und anderer Staaten mit entwickelter Rechtsordnung sowie der Länder der postsowjetischen Zeit, in denen die Verantwortung übernommen wurde, analysiert wegen Mordes an Minderjährigen, Minderjährigen und Neugeborenen. Eine vergleichende Charakterisierung der ukrainischen Gesetzgebung im Zeitraum von 1919 bis 2022 wurde ebenfalls durchgeführt. Die Strafbarkeitsvorschriften für den Mord an einer Mutter an ihrem neugeborenen Kind wurden untersucht und der Unterschied zu anderen qualifizierten Mordarten festgestellt. Dargestellt wird die individuelle Position zum Begriff „Menschenlebensentzug“. Es ist bewiesen, dass das Konzept des „Kindermords“ aus mehreren Gründen kein universelles Konzept ist: Jedes Land verwendet seine eigene Version dieser kriminellen Aktivität; In der ukrainischen

28 is also widely appreciated which states that a person who is coerced to participate in a crime shall, according to the circumstances of his crime, be given a mitigated punishment or be exempted from punishment. We believe this is fairly right to the point that such cases may also happen in our legal practice, when a woman having killed her newborn baby, lies to her husband that a baby is dead. Not willing to disclose it publicly, etc. she asks to bury a child so that no one knows about it. In fact, he becomes an accomplice to a crime (criminal offense) without even suspecting it.

However, despite the changes we have indicated, there is no rule stipulating the mother's responsibility for murdering a newborn child in the Criminal Code of the People's Republic of China. Instead, Chapter 4 Crimes of Infringing upon Citizens' Right of the Person and Democratic Rights, Article 232 stipulates "whoever intentionally commits homicide shall be sentenced to death, life imprisonment or fixed-term imprisonment of not less than 10 years; if the circumstances are relatively minor, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years"[32]. That is, the Law does not specify neither the encroachment object nor aggravating circumstances. Except for Article 233 of the Criminal Code of the People's Republic of China, which states that "whoever negligently causes death to another person shall be sentenced to fixedterm imprisonment of not less than three years but not more than seven years; if the circumstances are relatively minor, he shall be sentenced to fixed-term imprisonment of not more than three years, except as otherwise specifically provided in this Law" [33]. From our perspective, such approach is of practical use, since our criminal law has a large number of rules predicting death. For example, Articles 115-119 of the Criminal Code of Ukraine, Article 121 of Ukraine[34]: grievous bodily injury which caused death of a victim. Probably the approach of Chinese legislation on deprivation of a person's life should be taken into account.

A similar approach to recognizing a person guilty of murder is also observed in Danish legislation. Thus, Chapter 25 Violent crimes against a person, §237 emphasizes that "any person who kills another shall be punished for manslaughter with imprisonment from five years up to life imprisonment"[35]. At the same time, it should be stressed that the following circumstances mitigating the responsibility of a mother in labor for murdering her newborn child are taken into account in this country. Thus, §238 states "(1) if a mother kills her child in the course of or immediately after childbirth, and if she is shown to have acted while in distress, from fear of disgrace or while suffering from consequent weakness, confusion or panic caused by the childbirth, she shall be liable to imprisonment for any term not exceeding four years."[36]

The legislation of the post-Soviet republics is also of interest. Therefore, we analyzed certain laws on criminal liability of these countries. Thus, in Azerbaijan, almost as well as in Ukraine, there is a Section Crimes against life and health in which Article 120 stipulates responsibility for the murder of a person on the basis of aggravating circumstances. And Article 121 Deliberate murder by mother of a newborn child indicates that such murder is possible only while delivery or immediately after it, that is, it differs significantly from

[32] Уголовнуй кодекс Китайской Народной Республики / Под ред. докт. юрид. наук, проф. А.И. Коробеева, пер. с китайского Д.В. Вичикова. СПб.: Издательство «Юридический центр Пресс», 2001. С. 161.

[33] Кримінальний кодекс України. Науково-практичний коментар : у 2-х томах/за заг. ред. В.Я. Тація, В.П. Пшонки, В.І. Борисова, В.І. Тютюгіна. 5 –те вид., допов. – Х.: Право, 2013. 1040 с.

[34] Уголовнуй кодекс Дании / Научное редактирование и предисловие С.С.Беляева, канд. юрид. наук (МГУ им. М. В. Ломоносова). Перевод с датского и английского канд. юрид. наук С.С. Беляева, А.Н. Ручевой. СПб.: Издательство «Юридический центр Пресс», 2001. 230 с.

[35] Там само.

[36] Там само. С. 185-186.

the Israeli law where it is stipulated that such a child is a 12 months old human. Punishment is quite soft, up to three years of imprisonment [37].

In Article 112 of the Georgian Criminal Code, murder of a newborn child by his/her mother is singled out, and it is also provided that such murder is possible only during delivery or immediately after it. Punishment is more severe compared to Azerbaijan, a mother is punished by imprisonment for a term of up to 5 years[38].

The analysis has demonstrated that the attitude towards such a social evil as the murder of a newborn child by his/her mother is different in each country. Some do not single out the murder of a newborn child by his/her mother, but view it as a premeditated murder. However, almost all of them attribute such murders to mitigating circumstances and take them into account when imposing punishment.

It can also be emphasized that social value of a person's life lies in the fact that his physical destruction is destruction of social relations of which he is a bearer. Deprivation of a person's life entails violation of social relations, as it results in irreversible and irreparable consequences. Therefore, human life as an object of criminal law protection possesses socio-biological value.

A specific target of these categories of crimes is a person's life, regardless of their gender and any socio-demographic characteristics. It can be a newborn child, a person in the prime of life, a person suffering from an incurable disease. Differences based on nationality, ethic group, race, religion, age, origin, occupation, etc. cannot be considered either.

At the same time, from the persepctive of criminal law and elements of infanticide composition, not the issue of the human life content is of paramount and practical importance but the issue of its beginning. It should be emphasized that only in cases of infanticide this issue arises in practice, and only in such cases it is necessarily solved by judicial and investigative agencies. If in case of the murder of an adult the forensic medical examination does not always solve the issue of whether a person was alive at the time of a crime, the aliveness of a child must always be established in cases of infanticide.

Summarizing the above, we can interpret the concept of infanticide which is much broader than the murder of a newborn child.

We addressed Wikipedia in order to clarify certain terms, such as the meaning of Human (lat. homo; the Ukrainian word comes from the ancient *ludъ): a living, intelligent being, subject of socio-historical activity and culture[39].

Person is a term that has several meanings. A person is a human individual as a subject of socio-legal relations and conscious activity. Person is a grammatical category, natural person, legal entity[40].

A child is a human being between the stages of birth and puberty. In the Ukrainian language, there is such a gradation of the names of the child depending on its age: baby, toddler, boy/ girl, teenager, adolescent, young man/ girl[41].

[37] Уголовнуй кодекс Азербайджанской республики / Научное редактирование, предисловие докт юрид. наук, проф И.М Рагимова Перевод с азербайджанского Б.Э.Аббасова. СПб.: Издательство «Юридический центр Пресс», 2001. 325 с.

[38] Уголовнуй кодекс Грузии /Науч. ред. З.К.Бигвава. Перевод с грузинского И. Мериджанашвили. СПб.: Издательство «Юридический центр Пресс», 2002. 409 с.

[39] Людина. Матеріал з Вікіпедії – вільної енциклопедії. URL: https://uk.wikipedia.org/wiki/%D0%9B%D1%8E%D0%B4%D0%B8%D0%BD%D0%B0

[40] Особа. Матеріал з Вікіпедії – вільної енциклопедії. URL: https://uk.wikipedia.org/wiki/%D0%9E%D1%81%D0%BE%D0%B1%D0%B0_(%D0%B7%D0%BD%D0%B0%D1%87%D0%B5%D0%BD%D0%BD%D1%8F)

[41] Дитина. Матеріал з Вікіпедії – вільної енциклопедії. URL: https://uk.wikipedia.org/wiki/%D0%94%D0%B8%D1%82%D0%B8%D0%BD%D0%B0

Gesetzgebung kann es aufgrund verschiedener Straftaten zum Tod sowohl eines minderjährigen Kindes als auch des Fötus einer schwangeren Frau kommen, Teil 1, Punkt 2. Artikel 115 Vorsätzlicher Mord an einem neugeborenen Kind des Strafgesetzbuches der Ukraine; Artikel 117 Mord an einem neugeborenen Kind; Artikel 134 Illegale Abtreibung, d. h. künstlicher Schwangerschaftsabbruch durch äußere Eingriffe in den Körper der Frau, bei denen die Folgen krimineller Handlungen der Tod des Kindes und andere sind. Daher ist der verallgemeinerte Begriff „Kindermord" in bestimmten Fällen nicht immer angemessen, obwohl dieser Begriff ziemlich weit gefasst ist. Um dieses Konzept zu verstehen und zu verstehen, wurde daher eine umfassende Analyse sowohl der Theorie als auch der Praxis durchgeführt, da es keinen einheitlichen Standpunkt zum Verständnis gibt, wann schließlich das Leben beginnt, das kriminelle Elemente wegnehmen können. Denn aus strafrechtlicher Sicht und den Elementen der Zusammensetzung des Mordes an einem neugeborenen Kind geht es bei der Frage von primärer und praktischer Bedeutung nicht um den Inhalt des Begriffs "menschliches Leben", sondern um die Frage seines Anfangs. Daher bieten wir mehrere Definitionen von Kindesmord, Kindsmord und Menschenmord an.

Wir kamen zu dem allgemeinen Schluss, dass der Beginn des Lebens eines Menschen nicht vom Moment seiner physischen Geburt an gelegt wird, sondern viel früher.Deshalb analysierten sie den Entwurf des neuen Strafgesetzbuchs im Teil des Mordes selbst, einschließlich des Mordes an einem neugeborenen Kind.

Daher ermöglicht uns die durchgeführte rechtsvergleichende Charakterisierung der Definition von Begriffen, Probleme zu aktualisieren, die nach Meinung des Autors die Grundlage für weitere wissenschaftliche Forschung und Verbesserung der Gesetzgebung werden können, und somit die Tätigkeit von Justiz, Ermittlung und anderen Stellen, was im Allgemeinen zu einer Verbesserung des Schutzes der Menschenrechte führen wird.

Schlüsselwörter: Mord an einem neugeborenen Kind, Mutter. Kindesmord, Abtreibung, Leben des Kindes, strafrechtliche Verantwortlichkeit.

Ołeksandr KOWTUN

CHARAKTERYSTYKA KONCEPCJI DZIECIOBÓJSTWA:ASPEKT PORÓWNAWCZY

Adnotacja. W artykule dokonano analizy prac naukowych poświęconych problematyce zabijania przez matkę nowo narodzonego dziecka.Na problem zabójstw, w tym zabójstw dokonywanych przez matkę swojego nowonarodzonego dziecka, zwracali uwagę zarówno naukowcy, jak i praktycy: Antonyan Yu.M., Baulin Yu.V., Borovitinov M.M. Borysow VI, Gernet MM Lyubavsky AD, Naumov AV, Neklyudov NA, Ostapenko LA, Sainchyn OS, Semenyuk IS, Sosnina OV, Stratonov VM, Pashchenko O. Yu, TD Tsybulenko w tym zagraniczni naukowcy: Richard von Kraft-Ebing, Johann Zachary Platner i inni.

Jak wykazała analiza, nauka na przestrzeni różnych okresów historycznych nieustannie zmieniała swoje zdanie i stosunek do takiego zła społecznego, jakim jest matka zabijająca swoje nowo narodzone dziecko.Nadal jednak istnieje wiele nierozwiązanych problemów, z których jeden postrzegamy jako niepewność pojęć i definicji tego szczególnego typu przestępstw.

W pracach różnych naukowców spotykamy się z utożsamianiem pojęcia dzieciobójstwa z zabiciem dziecka. W celu szczegółowego zdefiniowania pojęcia dzieciobójstwa przeanalizowano ustawodawstwo systemów prawnych anglosaskich, romańsko-germańskich oraz innych państw o rozwiniętych systemach prawnych, a także krajów postsowieckich, w których przewidziano odpowiedzialność za zabójstwo dzieci młodych, nieletnich i noworodków. Dokonano również charakterystyki porównawczej ustawodawstwa ukraińskiego w okresie od 1919 do 2022 roku. Zbadano przepisy dotyczące odpowiedzialności karnej za zabójstwo matki jej nowonarodzonego dziecka i ustalono różnicę od innych kwalifikowanych rodzajów zabójstw. Podano indywidualne stanowisko dotyczące koncepcji „pozbawienia życia ludzkiego". Udowodniono, że pojęcie „dzieciobójstwa" nie jest pojęciem uniwersalnym z kilku powodów: każdy kraj stosuje własną wersję tej przestępczej działalności; w ustawodawstwie ukraińskim w wyniku różnych przestępstw

Based upon these definitions, we may state that infanticide is deprivation of a person's life.

In the Criminal Code of Ukraine, such rules include Chapter 2, paragraph 2, Article 115 "...murder of a young child or a woman who, to the knowledge of the culprit, is pregnant"; Article 117 "...murder of a newborn child by his/her mother"; part 1, Article 121 "intended grievous bodily injury resulted in interruption of pregnancy"; Article 135 Leaving in danger, Article 134 Illegal abortion, i.e. artificial termination of pregnancy through external intervention in a woman's body, which criminal consequence is a child's death; Article 136 Failure to provide help to a person who is in a condition dangerous to life in which "any such acts as provided for by paragraph 1 or 2 of this Article, where they caused death of the victim...."; Article 137 Improper performance of duty with regard to children's life safety and health care, part 2 states "any such actions that caused death of a minor or other grave consequences».

The murder of a newborn child is deprivation of a baby's life by a mother. Although we believe this concept requires a broader definition.

Article 117 of the Criminal Code of Ukraine notes "infanticide (murder of a newborn child by his/her mother) during delivery or immediately after it"[42] [9, p. 47]. But according to the analysis of some countries, for example Israel, the age of a newborn child is very clearly defined: it is 12 months. However, this circumstance may not be given due attention by the court that may classify these actions as intentional murder or birth concealment as well as declare a person unconvinced in accordance with Article 19 of the Criminal Law of Israel[43] .

In Ukrainian legislation, the issue of when a mother committed the murder of her newborn child is not very clear: "immediately after delivery". And currently we already see efforts of criminal law scholars to consider not the content of the concept of human life in signs of infanticide, but the issue of its beginning. Article 4.1.11. Causing death of the fetus states that a person who causes the death of a human fetus after the beginning of the 22nd week of pregnancy commits a crime of the 7th degree[44].

As history shows, in accordance with written documents of Kyivan Rus, the first documented attempts to avert criminal liability for termination of pregnancy (in fact abortion) was the Charter of Prince Yaroslav the Wise. In this document, abortion (carried out in any way) was equated to murder and it was noted that "...every pregnant woman will be called a murderer if she poinsons her baby in any month of pregnancy"[45] .

Conclusions: Based on these definitions, it can be stated that infanticide is deprivation of human life. The murder of a newborn child is deprivation of a baby's life by his/her mother.

We believe that distinguishing the murder of a newborn child by his/her mother as a separate rule is not entirely justified. Many European countries have already excluded such articles from their criminal legislation and interpret the murder of a child as ordinary, and sometimes qualified murder.

The beginning of a person's life is laid not from the moment of his physical birth but much earlier. Therefore, we suggest analyzing certain provisions that will support our opinion, including the place of abortion in the system of criminal prosecution for infanticide.

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43 Закон об уголовном праве Израиля / Предисл., пер. с иврита: магистр права (LL M) М. Дорфман; науч. ред. канд. юрид. наук Н. И. Мацнев. СПб.: Изд-во Р. Асланова «Юридический центр Пресс», 2005. 412 с.

44 Текст проекту Кримінального кодексу України URL: https://newcriminalcode.org.ua/criminal-code

45 Пространная редакция Устава князя Ярослава Владимировича «О церковнух судах». Российское законодательство X–XX веков. Т. 1. М., 1984. С.190.

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może dojść do śmierci zarówno małoletniego dziecka, jak i płodu kobiety ciężarnej, cz. 1 pkt 2. Artykuł 115 Umyślne zabójstwo noworodka Kodeksu karnego Ukrainy; Artykuł 117 Zabójstwo noworodka; Art. 134. Nielegalna aborcja, czyli sztuczne przerwanie ciąży poprzez zewnętrzną ingerencję w organizm kobiety, w której konsekwencją czynów karalnych jest śmierć dziecka i inne. Dlatego uogólniony termin „dzieciobójstwo" w niektórych przypadkach nie zawsze jest odpowiedni do użycia, chociaż pojęcie to jest dość szerokie. Dlatego też, aby zrozumieć to pojęcie, przeprowadzono szeroką analizę zarówno teorii, jak i praktyki, ponieważ nie ma jednego punktu widzenia na zrozumienie, kiedy zaczyna się samo życie, którego elementy przestępcze mogą pozbawić. Przecież z punktu widzenia prawa karnego i elementów zabójstwa noworodka podstawowe i praktyczne znaczenie ma kwestia początku życia ludzkiego, a nie treść pojęcia "życie ludzkie". Dlatego przedstawiamy kilka definicji pojęć „dzieciobójstwa", „zabójstwa noworodka" i „zabójstwa człowieka".

Doszliśmy do uogólnionego wniosku, że początek życia ludzkiego nie zaczyna się w momencie fizycznego urodzenia, ale znacznie wcześniej. Dlatego przeanalizowaliśmy projekt nowego kodeksu karnego, pod kątem zabójstwa, w tym noworodka.

Dlatego też przeprowadzona porównawczo-prawna charakterystyka definicji pojęć pozwala na aktualizację zagadnień, które zdaniem autora mogą stać się podstawą do dalszych badań naukowych i doskonalenia ustawodawstwa, a tym samym usprawnienia działalności organów sądowych, śledczych i innymi organami, co generalnie doprowadzi do poprawy ochrony praw człowieka.

Słowa kluczowe: zabójstwo noworodka, dzieciobójstwo, aborcja, życie dziecka, odpowiedzialność karna.

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