

POLITICAL CRIME

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Abstract. *Political crime has not been the subject matter of substantial criminological research. Given the fact that it is a phenomenon that has immeasurable social consequences, it is necessary to examine the scientific thought on this topic. The first part of the paper provides a legal history overview of political crime in different historical periods. The second part of the paper focuses on the conceptual framework of political crime, including its definition, forms of manifestation and examples. In the final part, the authors emphasize the need for further criminological studies on this form of crime.*

Key words: *political crime, phenomenological characteristics, manifestations.*

1. INTRODUCTION

Although political crime is one of the oldest forms of criminality, it has generally been neglected as a subject matter of criminological studies. The lack of more substantial research on this matter may be unexpected, particularly considering that the history of humankind bears witness of numerous examples of unlawful acts which can be designated as political crime. The lack of criminologists' interest in studying political criminality has been aptly described by criminology professor Stephen Schafer, who stated that political crime is regarded as a criminological satellite, a peculiar set of law violations revolving around the concept of common crimes. As justification for studying political crime, it suffices to mention the 20th century, which was marked by significant political changes and violence. Despite the belief that the 21st century would be an era of peace, prosperity and well-being, the contemporary reality is quite different. Non-violent (color) revolutions, coups *d'état*, wars in Eastern Europe, and conflicts in the Middle East indicate that "the political criminals of our time are simply technologically modern criminals cloaked in the

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garb of antiquity" (Schafer, 1971: 207). In this regard, it is worth citing the words of sociology professor Paddy Hillyard: "a political criminal today may be a government minister tomorrow" (McLaughlin, Muncie, 2006: 212).

2. LEGAL HISTORY OVERVIEW OF POLITICAL CRIME

In the course of legal history, political crime has been not only a legal category but also a reflection of the power relations. As such, it defines the boundaries of what is permissible, reveals the mechanisms of repression, and uncovers how law becomes a tool of political control. The definition of crime has changed over time depending on social, legal and ideological factors. Given the fact that a legal-history review of political crime could be extensively covered in monographs, this overview will focus on political crime as illustrated in the ancient period, the Middle Ages, and the modern era.

In ancient states, political crime was associated with endangering the order and authority of the ruling elite. In Athens, the following actions were considered crimes against the state: treason, deceiving the people with false promises, dishonorable conduct in the assembly, submitting illegal proposals, atheism, and any preparation or attempt to overthrow Athenian democracy or seize power. The procedure was initiated and conducted *ex officio*. Interestingly, any person could kill the perpetrator of these crimes without punishment (Nikolić, 2014:98). Ostracism, a political measure targeting individuals seeking to restore tyranny in Athens, gradually became a powerful tool for dealing with political opponents. Through Cleisthenes' reforms, the *Ecclesia* (the People's Assembly in Athens)¹ gained the right to assess whether a citizen had become "dangerous" for Athenian democracy due to his political reputation or ambitions.² In case of a majority vote, the person would be subjected to a ten-year exile from Athens (Montesquieu, 1989:189). In Rome, crimes against the state included: *peculatus* (embezzlement of public funds), *crimen maiestatis* (crimes against the *populus Romanus* and their security), *perduellio* (a higher degree of treason committed with weapons), *proditio* (treason), *repetundae* (extortion), *falsum* (forgery), *ambitius* (various types of abuse) (Naumovski, Prodanov, 2019:93-104). *Crimen maiestatis* covered crimes against the Roman people and their security. Manifestations of this crime were: armed rebellion against the state and occupation of temples and/or public spaces, conspiracy to murder magistrates or other public officials, illegal possession of weapons and their use against the authorities, inciting soldiers to rebel against the state, etc. (Digesta 48.4.1). Accusations were often used as a political weapon, especially during the Principate period when emperors eliminated their opponents through legal procedures (Naumovski, Prodanov, 2019:93-104).

In the Middle Ages, political crime was most often associated with rebellion against the monarch, treason, heresy, and the violation of feudal obligations. In England, the Treason Act of 1351 introduced the concepts of high treason and petty treason. High treason involved preparing or committing violent acts against the king, his consort, or the heir to the throne, as well as against senior royal officials. The penalties for these crimes were extremely harsh, including hanging, drawing, and quartering for men, and burning at the stake for women.³ In

¹ The People's Assembly was the central body of Athenian democracy, composed of full Athenian citizens who had reached the age of 20.

² Socrates was one of those who were subject to ostracism. After being accused of corrupting the youth and introducing new deities, he was convicted and executed.

³ The Treason Act 1371 in The Law Commission, London, 1977, 7-10

France, the *Coutumes de Beauvaisis* of 1282 classified treason as a serious crime. In judicial practice, attacks on the king or members of the royal family, attacks on state security (etc.) were categorized as crimes against the state (Nikolić, 2014:270-271). Starting from the 13th century, kings used *lettre de cachet* as a tool to deal with political opponents. The abuse of secret royal orders, which allowed for arrests without trial, was particularly widespread in the 17th and the 18th century (Britannica, 2023).⁴

In the modern era, political crime was still linked to treason and rebellion but new instruments for sanctioning such crimes emerged. In Russia, the 1649 decree (*Uloženije*) of Emperor Alexis I Romanov prescribed the following crimes against the state: treason, attacks on the life and body of the emperor, and conspiracy or public assembly (Budanov, 2005:345). The prescribed punishment was death penalty, with property confiscation in some cases. Catherine II the Great issued the Law on State Treason in 1762, which intensified penalties (press censorship, deportation to Siberia, use of secret police). Emperor Nicholas I established one of the most rigorous secret services – the Third Section of His Majesty's Chancery, known as the *Okhrana*. The *Okhrana* had the authority to arrest, torture, and persecute anyone who criticized the government (Evtuhov, Kotkin, 2003:137).

In Serbia, from the medieval to the modern era, political crime has reflected the dynamic history of the state and law that evolved from the medieval Nemanjić state, through Ottoman rule, to the restoration of Serbian statehood in the 19th century. In Serbian medieval law, crimes against the state and social order included: gathering of commoners/rebels (*zbor sebara*), serfs (*meropahs*) fleeing from the ruler's estate, treason (*nevera*), failure to pay tax (*soča*), disobedience to the ruler's orders, and offenses against the judiciary (Randelović, 2012:26). Notably, the public assembly of commoners/rebels (*zbor sebara*), a criminal offense prohibited by Article 69 of Dušan's Code, was punishable by cutting off the participants' ears and burning the leaders' beards and mustaches (Randelović, Todorović-Krstić, 2009:33). The reason for such incrimination was likely fear of rebellion. On the other hand, this crime did not exist during the Ottoman rule in Serbia. The legal system maintained the institution of village assemblies, granting them certain judicial powers, while the control of this form of self-government was entrusted to the *millet-bashas*⁵ and church authorities (Bartulović, Randelović, 2012:7).

Political crime is not expressly mentioned in the Serbian 19th century constitutions. Instead, special laws or other acts regulating political criminality were adopted. The organization of district courts (*Ustrojstvo okružnih sudova*) in 1840 contained several criminal offenses, such as rebellion against the supreme state and lower authorities, disturbing public peace and order, and abuse of power (Pavlović, 2005:288). The Law on Treason and Rebellion (*Zakon o izdaji i buntovništvu*) of 1843 defined high treason as any act, either public or secret, committed alone or "in company", aimed against the life and limb, freedom, and "rule" of the ruling prince, as well as against the foundations of the political system of the Principality. Treason was also understood as "mere agreement with local or foreign parties, within Serbia or outside of it... made with a treacherous intent". Rebellion was defined as an armed gathering aimed at using force to disrupt the existing state order (Pavlović, 2005:288-289). The 1888 Constitution of the Kingdom of Serbia⁶ deserves mention because it abolished death penalty for purely political criminals but stipulated that this exception did not apply to the execution or attempted assassination of the king or members of the royal family (Art. 13 of the Constitution of the Kingdom of Serbia, 1888).

⁴ Encyclopaedia Britannica (2023). French history, <https://www.britannica.com/topic/lettre-de-cachet>

⁵ A *millet* was an autonomous religious community in the Ottoman Empire, headed by the millet-basha.

⁶ Устав Краљевине Србије (The Constitution of the Kingdom of Serbia), 1888.

3. THE CONCEPT OF POLITICAL CRIME

Criminological studies on the matter of political crime are quite scarce, primarily due to the inherent challenges in defining this form of criminality. It should be noted that virtually all criminal acts which are viewed as a threat to society could be categorized as political crime. Simultaneously, certain ideologically motivated criminal acts fall into other forms of criminality. However, even if the uncertainties regarding the definition of political crime were resolved, there are no relevant domestic or international organizations that collect comprehensive data on political crime, which further complicates any criminological study on the topic. Nevertheless, in order to identify the emergent forms of political crime, it is essential to provide an overview of definitions provided by several criminologists. For instance, Frank Hagan (1997) emphasized that "it is not the crimes themselves that distinguish political criminals, but their motivation, their view of crime as a necessary means to achieve a higher goal" (Helfgott, 2008: 324). Similarly, Steven Barkan suggests that political crime should be defined as "any illegal or socially harmful act aimed at preserving or changing the existing political or social order" (Helfgott, 2008: 329). However, this definition of political crime is open to numerous criticisms. A few dilemmas and questions suffice to illustrate the imprecision of the given definition. For example, the question arises whether the torture and murder of an individual due to their sexual orientation, race, or other characteristics of a person driven by prejudice constitutes a hate crime or political crime. In other words, while it is clear that hate crimes are rooted in specific ideologies, it does not necessarily mean that they should be classified as political crime. Another question is how criminal acts motivated by non-political reasons, such as rebellion, espionage or treason, should be categorized. In such a dilemma, the motivation is of an economic nature. Would these crimes then be classified as political crime or not?⁷ Given the negative responses to these dilemmas, it is evident that the proposed definition of political criminality is flawed.

Resolving these dilemmas requires a different approach to defining political crime. Political crime is inherently motivated by ideology, which should not be ignored. As René Garraud (1912) pointed out, there are difficulties in determining whether a committed criminal act can be classified as political crime. For a crime to be categorized as political crime, there must be a relevant political motivation. Only in such a case can we talk about political crime (Ferrari, 1919:376). Thus, there is a general consensus among researchers and scholars that "political crime is defined as ideologically motivated behavior that is legally defined as criminal", which includes crimes omitted against the state as well as those committed by the state in violation of applicable laws (Helfgott, 2008: 331).

4. FORMS OF POLITICAL CRIME

In terms of the existing types of political crime, there is a general agreement among experts in this field of criminality. For example, Barkan and Hagan, as well as other scholars such as Jeffrey Ian Ross and Austin Turk, highlight that political crime can be classified into two categories: *oppositional crime* (crimes against the government) and *state crime* (crimes committed by the government). Each of these categories entails further subcategories. Oppositional crime includes non-violent and violent crimes. Non-violent crimes include political protests, rebellion, treason, and espionage; violent crimes include assassination and

⁷ For more, see: Helfgott, 2008: 324-329.

terrorism. On the other hand, state crime encompasses political corruption, illegal surveillance, human rights violations, state-corporate crime, and state violence (Helfgott, 2008: 331).

4.1. Oppositional crimes (crimes against the government)

The perpetrators of oppositional crime, as the first form of political crime, have strong ideological convictions which conflict with the interests of the ruling authorities and result in behaviors aimed at changing the existing order. The structure of behaviors that can be categorized as oppositional crime is varied, including the use of violence. Perpetrators of oppositional crime may be activists both from the political left and right. For example, activists from the political left might engage in activities such as violating curfews, while the efforts of activists from the political right, such as those advocating for the pro-life movement⁸, may be aimed at clinics where abortions are performed. Additionally, members of radical groups protecting animal rights or environmentalists may also be exponents of oppositional crime, as they seek to achieve their goals through specific societal changes (Helfgott, 2008: 331).

As previously noted, oppositional crime is subdivided into non-violent and violent crimes.

4.1.1. Non-violent forms of oppositional crime

Non-violent forms of oppositional crime are political protests, rebellion, treason, and espionage. As the first form of non-violent crime, *political protests* provoke considerable controversy. Namely, the right to protest is guaranteed by both international and domestic legal documents. In the Republic of Serbia, the freedom of assembly is enshrined in Article 54 of the Constitution of the Republic of Serbia (2006).⁹ This freedom is also guaranteed in international documents, including the European Convention on Human Rights (1950),¹⁰ which guarantees this right in Article 11 § 1 of the ECHR. Therefore, the question arises: how can a protest fall under non-violent oppositional crime? The answer is quite simple. There are certain limitations on the right to assemble. The Public Assembly Act (2016)¹¹ stipulates such limitations in Article 8. Regarding the European Convention on Human Rights, the limitations are set forth in Article 11 § 2 of the ECHR. In other words, when the provisions governing when, where, how, and how long citizens can protest are violated, political protests may be classified as oppositional crime. In this way, citizens express political disobedience in order to achieve proclaimed goals. Through non-violent protests, they demonstrate a certain symbolism. A good example of this form of oppositional crime are the protests organized by radical environmentalists who blocked roads leading to parts of forests designated for logging (Helfgott, 2008:332). In April 2002, activists from the international non-governmental organization, Greenpeace, boarded a ship near Miami Beach that was transporting mahogany, which the activists claimed had been illegally cut in Brazil. During this protest, the activists were arrested for allegedly committing offenses, although they were ultimately released (Spokesman Review, 2004).¹² If we look further

⁸ Organisation of American Historians (n.d). Abolishing Abortion: the History of the Pro-life Movement in America, <https://www.oah.org/tah/november-3/abolishing-abortion-the-history-of-the-pro-life-movement-in-america/>.

⁹ Устав Републике Србије (the Constitution of the Republic of Serbia), *Сл. гласник РС*, бр. 98/2006 и 115/2021

¹⁰ CoE European Convention on Human Rights (1950), Council of Europe, Strasbourg, France, https://www.echr.coe.int/documents/d/echr/Convention_ENG, (accessed 27.11.2023).

¹¹ Закон о јавном окупљању (the Public Assembly Act), *Сл. гласник РС*, бр. 6/2016

¹² The Spokesman Review (2004). Greenpeace goes on trial today under old 'sailor-mongering' law, 17 May 2004, <https://www.spokesman.com/stories/2004/may/17/greenpeace-goes-on-trial-today-under-old-sailor/>

back in history, we can highlight several famous examples. A prominent example of achieving political goals through non-violent protests is the activism of Martin Luther King Jr. In his fight for equality for African Americans in the United States, he employed methods of nonviolence and civil disobedience. During his speech at the steps of the Lincoln Memorial, dedicated to the 16th U.S. president Abraham Lincoln, known as the "March on Washington for Jobs and Freedom" on 28 August 1963, he delivered his famous "I Have a Dream" speech in front of 200,000 people, calling for racial equality and an end to discrimination¹³. Another prominent example is Mohandas Karamchand Gandhi, more commonly known as Mahatma Gandhi, who is globally recognized as a pioneer in implementing the doctrine of non-violent protest to achieve political and social progress. Under his leadership, India successfully gained independence from the British Empire in 1947 through the use of non-violent protests (Shankar, 1996).¹⁴

The next form of non-violent oppositional crime is *rebellion*, an archaic crime that has often been used to target political discourse. This criminal offense has its origins in the 16th century. At that time, England criminalized rebellion as a form of existing treason, encompassing libels against the reputation and actions of public officials, judges, and clergy who sought to divide and alienate subjects from their rulers. In this way, authorities sought to prevent political dissent within the state. This suggests that criminal prosecution for rebellion was politically motivated. One of the earliest cases of someone being convicted for rebellion was that of Lewis Pickering, who was convicted in 1605 for defaming judges by writing a rhyme about the recently deceased archbishop and giving the rhyme to a friend. The rationale for the sentence was that, although the rhyme did not result in any direct threat of violence, it was considered "poison" to the Commonwealth as a whole, as it implicitly criticized the king. Whether the defamation was true or not was deemed irrelevant (Smith, Yim, Kahloon, 2022:4). Over time, the criminal offense of rebellion has been incriminated in many countries worldwide. The common characteristic is the presence of a rebellious intent, which constitutes the basis for actions or speech that are prosecuted as rebellious (Smith, Yim, Kahloon, 2022:4). Rebellion involves the transmission of information for the purpose of inciting resistance to the government, defamation, or treason. Criminal legislation in the United States defines rebellion as follows: if two or more persons, in any state or territory, or in any place under U.S. jurisdiction, conspire to overthrow, destroy, or forcibly subvert the Government of the United States, or to wage war against it, or to use force to oppose its authority, or to forcibly prevent, obstruct, or delay the execution of any law of the United States, or to forcibly seize, take, or possess any property of the United States contrary to its authority, each of them shall be fined under this title or imprisoned for up to twenty years, or both (18 U.S. Code § 2384).¹⁵ Although prosecutions for this criminal offense are rare, there are several examples. One example is the conviction of five members of the far-right group Proud Boys, who were sentenced for their role in planning the rebellion at

¹³ For more, see: Martin Luther King, Jr. 1929-1968, California Department of Education, Sacramento, 1995.

¹⁴ For more, see: Shankar, R., The Story of Gandhi, Children's Book Trust Nehru House, New Delhi, 1969.

¹⁵ US Code: Title 18 U.S. Code § 2384 - Seditious conspiracy Cornell Law School, Legal Information Institute, <https://www.law.cornell.edu/uscode/text/18/2384>, accessed 29.11.2023.

the U.S. Capitol on 6 January 2021 (Britannica, 2021).¹⁶ This act was part of an attempt to prevent the certification of Joe Biden as the new U.S. president (Vox, 2023).¹⁷

Treason is the next non-violent form of oppositional crime. It can be defined as a violation of loyalty to the community. The concept of treason has been recognized as a criminal act since ancient Rome, and its incrimination has persisted into modern times.¹⁸ For example, in Article III, Section 3 of the U.S. Constitution, treason is defined as waging war against the United States or providing aid and comfort to its enemies. The accused must be a U.S. citizen or in the process of naturalization. A conviction for treason requires the testimony of two witnesses to the same overt act or a confession in open court (US Congress, n.d.).¹⁹ Historically, there have been fewer than 50 cases of treason prosecuted in the United States. One of the more controversial cases allegedly involving treason is the case against American citizen John Walker Lindh, who was arrested by the U.S. military after he fought alongside the Taliban against U.S. forces. Although prosecutors argued that he should be convicted of treason, which was punishable by death penalty, the court determined that he should be convicted for providing services to the Taliban and carrying weapons. Thus, Lindh was sentenced to 20 years in prison, thereby avoiding the death penalty (Helfgott, 2008: 333). In addition, it is worth mentioning a case from World War II involving William Joyce, known by his nickname Lord Haw-Haw. Born in 1906, in New York, Joyce moved to Ireland with his British parents and later to England. In 1932, he became a member of the British Union of Fascists led by Oswald Mosley. As a Nazi sympathizer, Joyce moved to Germany, where he became a Nazi propaganda broadcaster during World War II, aiming to sow distrust in the British public toward their government. After the war, he was arrested and convicted in Great Britain under the Treason Act of 1351 for aiding the enemy. Joyce was hanged at Wandsworth Prison in January 1946, becoming the last person to be executed for treason in Great Britain (Historic UK, n.d.).²⁰

Espionage is the final non-violent form of oppositional crime. This criminal offense can be defined as deliberate collection of secret information, ordered by a government or an organization that is hostile or suspicious towards those to whom the information pertains, and performed by individuals who are not authorized to collect such information by the subject of the processing. In this regard, the English historian Michael Burn highlighted the key characteristics of espionage: 1) the spy is intentionally involved in transmitting information about people or matters that are the subject of their investigation; 2) the spy obtains the information secretly, and transmits it in a covert manner to the state for which he/she is working; 3) the information of interest serves individuals who are hostile towards those about whom the information pertains, typically regarding persons in government positions or those who are believed to pose a threat to state structures; and 4) the spy is knowingly a deceiver (Demarest, 1996: 325-326). In history, there have been many examples of espionage but one case stands

¹⁶ Britannica (2021). January 6 U.S. Capitol attack, Washington, D.C., U.S. [2021], 4 Aug. 2021, <https://www.britannica.com/event/January-6-U-S-Capitol-attack>, (accessed 29.11.2023).

¹⁷ Vox.com (2023). The Courts are sending a message: January 6 insurrectionists will answer for their crimes., <https://www.vox.com/politics/2023/5/5/23712755/proud-boys-sedition-trial-verdict-conviction-january-6-attack-trump>

¹⁸ See: Indiana University/Maurer School of Law (1959). Historical Concept of Treason: English, American (Year Unknown). *Indiana Law Journal*, Bloomington, vol. 35, issue 1. Art. 4, p. 70, <https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=3029&context=ilj>

¹⁹ US Congress (n.d.) US Constitution Annotated: Article III- Judicial Branch, <https://constitution.congress.gov/browse/article-3/section-3/>, accessed 30.11.2023

²⁰ Historic.UK (n.d.) Lord Haw-Haw: The Story of William Joyce, <https://www.historic-uk.com/HistoryUK/HistoryofBritain/Lord-Haw-Haw-William-Joyce/>, (accessed 30.11.2023)

out as it had far-reaching consequences for the world. This particular case involves a spy named Theodore Hall, an American citizen (born in 1925). Being exceptionally gifted in mathematics and physics, he enrolled at the prestigious Harvard University at the age of 16. During his studies, he was recruited by a communist Saville Sax (his roommate), and became a member of the Marxist student organization at Harvard. When the United States initiated the Manhattan Project,²¹ Hall was one of the scientists involved in the project aimed at developing an atomic bomb. In 1944, Hall and Sax began secretly passing information about the nuclear bomb to the Soviet Union. As a result, the Soviet Union was able to build an atomic bomb by 1949, even though the Western allies believed that it was impossible before 1953. Hall claimed that the Soviet Union's development of the atomic bomb would level the playing field and serve as a deterrent against the potential use of nuclear weapons. Despite being discovered by U.S. authorities in 1950, Hall was not convicted for the lack of sufficient evidence, apart from the intercepted and decoded Moscow telegrams. As the U.S. authorities did not want to reveal that they had successfully decoded the telegrams, Hall managed to avoid prosecution (Cabrera, 1998).²²

4.1.2. *Violent forms of oppositional crime*

Violent forms of oppositional crime include assassination and terrorism.

Assassination is not a new phenomenon but scholars still have dilemmas about what constitutes an assassination. Simply put, assassination is a political murder. In this regard, criminal law professor Tyler Harder emphasizes three essential elements necessary to classify an act as an assassination; 1) the committed act of murder; 2) a specifically targeted individual (the victim); and 3) the presence of a political purpose. If any of these elements is missing, it cannot be claimed that assassination has occurred, even if someone has been deprived of life (Kasher, Yadlin, 2005: 42). To illustrate an assassination, we will mention two examples. One of the most well-known assassination cases is the murder of U.S. President John F. Kennedy on 22 November 1963, in Dallas, carried out by a former marine Lee Harvey Oswald (US Senate, 1976).²³ In addition, we must also mention the assassination of King Alexander I of Yugoslavia on 9 October 1934, in Marseille, committed by the assassin Vlado Černozemski, a member of the Internal Macedonian Revolutionary Organization (IMRO), in cooperation with the Croatian Ustaše movement. The assassination occurred because members of IMRO and the Ustaše sought to separate Macedonia and Croatia from the Kingdom of Yugoslavia. During this event, the French Minister of Foreign Affairs, Louis Barthou, was insured and later died due to inadequate medical assistance (Gaćinović, 2017: 349).²⁴

Terrorism is the second violent form of oppositional crime. It is an extremely significant phenomenon with far-reaching consequences for a state, society, and individuals. To conceptually define terrorism, it is necessary to start from epistemology. The word "terrorism" derives from the Latin word *terror*, meaning fear, horror. Although it is more than clear what

²¹ See: Vincent, J. (1985)., *Manhattan: The Army and Atomic Bomb*, Center of Military History, Washington

²² See: Cabrera, C. (1998)., *The Soviet penetration of the Manhattan project's Los Alamos laboratory*, Florida Atlantic University, Boca Raton

²³ See: US Senate (1976). *The Investigation of the assassination of president John F. Kennedy: performance of the intelligence agencies*, Final report of the select committee to study governmental operations with respect to intelligence activities, United States Senate, U.S. government printing office, Washington, 1976.

²⁴ For more, see: Гаћиновић, Р. (2017). Убиство краља Александра Карађорђевића – усташки терористички акт (Assassination of King Aleksandar Karadjodjevic - Ustašas' terrorist act), Војно дело, Министарство одбране РС, Универзитет одбране у Београду - Институт за стратегијска истраживања, Београд, вол. 69, бр. 3, 2017.

terrorism implies, a unified definition still does not exist. In this regard, we will present the definitions provided by several experts. The American historian, journalist, and political commentator Walter Laqueur defined terrorism as the illegitimate use of force to achieve a political goal, directed against innocent people. Tore Bjørgo, professor at the University of Oslo and Director of the University's Center for Extremism Research: Right-Wing Extremism, Hate Crime and Political Violence (C-REX), states that terrorism is a set of methods of struggle, not an ideology or a movement that can be identified. It involves the deliberate use of violence against (primarily) non-combatants in order to achieve a psychological effect of fear on others, not on the immediate targets. Another noteworthy definition of terrorism comes from Professor Fernando Reinares, a political science and security studies scholar at Rey Juan Carlos University in Madrid. He identifies three features that define terrorism for academic study: 1) the act of violence results in a widespread disproportionate emotional reaction in the form of fear and anxiety, which allows terrorists to influence attitudes and behavior; 2) violence is directed at symbolic targets, being systemic and fairly unpredictable; and 3) the act of violence conveys messages and threats aimed at communication and achieving social control (Bruce, 2013:27). In addition to foreign experts, it is necessary to mention our own professor, Vojin Dimitrijević. He identified several elements used in defining terrorism: causing fear and other psychological reactions, the use of violence, a political goal, the selection of the victim (target of violence), unusualness, exceptionality, "shock value", criminal nature, and the systematic character of terrorism. However, Professor Dimitrijević had certain doubts about whether some elements are essential for defining terrorism. Nonetheless, he provided his view of terrorism as "an act of physical violence whose target is chosen in such a way as to provoke strong psychological reactions (primarily fear) in a wider group of people, in the hope that these reactions will help maintain or change behavior that is important for achieving a political goal, if such an act is not justified by general interests defined independently of it and if it is not carried out according to rules (legal or otherwise) commonly applied to permissible forms of violence" (Dimitrijević, 1988: 525-539).

4.2. State crime (crimes committed by the government)

State crime are crimes committed by the state government, including: political corruption, illegal surveillance, human rights violations, state-corporate crime, and state violence.

The first form of state crime is *political corruption*. Political corruption refers to the specific misuse of political office to gain political benefit for oneself or others, contrary to the principles of integrity in politics and against the public interest (Fatić, 2008:30). It also encompasses a wide range of offenses and unlawful acts committed by political leaders before, during, and after holding office. It differs from petty or bureaucratic corruption in that it is carried out by political leaders or elected officials entrusted with public authority and responsible for representing the public interest. The consequences of political corruption are not measured solely in financial terms, as its occurrence causes inequality in access to power and public positions, resulting in the public loss of trust in the political system. Political corruption involves the misconduct of politicians, harmful to the state and the public, aimed at fulfilling the goals related to personal career advancement or the interests of close associates. Two specific forms of political corruption are: cronyism, which refers to favoritism or appointing close personal friends to public positions, and nepotism, which refers to favoritism and support of family members (Dimovski, 2024: 256). Politicians can be considered corrupt if they use their position within the state

hierarchy to make decisions that result in harm to the state, act counterproductively in disputes the state has with various organizations, companies, or other states, and use public policy for personal promotion without regard for long-term interests. The higher the politician's position in the hierarchical structure, the greater the potential for political corruption (Fatić, 2008: 30).

The second form of state crime is *illegal surveillance*. As defined by American history professor Athan Theoharis, illegal surveillance involves spying by the state, the collection of information, and domestic surveillance of dissident groups by the police and state agents. Thus, the synonyms for illegal surveillance are domestic espionage, secret police, and political police. Although the term domestic espionage may be confused with espionage, it should be emphasized that these are not the same phenomena. In domestic espionage, activities are aimed at the citizens of one's own state to gather information with the aim of suppressing dissident groups and their activities, and maintaining state power. In espionage, as previously noted, activities are aimed at foreign governments and citizens (Helfgott, 2008: 362-263). However, to dispel any doubts about which term is appropriate, it can rightly be argued that the term illegal surveillance is most adequate as it directly refers to illegal activities within the domain of domestic espionage, which is a common phenomenon if it is committed within the national jurisdiction. One of the most prominent scandals related to illegal surveillance concerns the wiretapping of millions of American citizens' phones by the National Security Agency (NSA). In particular, while working for the NSA, Edward Snowden discovered that mobile phones were being illegally wiretapped and notified the public in 2013. As he was not granted the whistleblower status, he fled from the USA to Russia, where he was granted a political asylum (Kadidal, 2014: 433-480).²⁵

Human rights violations, as a form of state crime, require special attention as they continue to be threatened worldwide, despite the international and regional documents guaranteeing human rights. After the horrors of World War II, the international community, embodied in the United Nations (UN), established in San Francisco on 24 October 1945, adopted the Universal Declaration of Human Rights (UDHR) on 10 December 1948. This document was a turning point in the history of human rights. It set a minimum standard for the protection of human rights that should be universally safeguarded. It served as a guide for newly formed states and democracies in drafting their constitutions. After the adoption of this document, the UN activities regarding human rights were intensified in order to create an additional barrier for the protection : of human rights. Thus, the UN adopted two other documents: the International Covenant on Civil and Political Rights and its two Optional Protocols (on the complaints procedure and death penalty) and the International Covenant on Economic, Social, and Cultural Rights and its Optional Protocol (United Nations, n.d.).²⁶ In addition to the United Nations, as a global organization whose goal is *inter alia* the protection of human rights, another important regional organization is the Council of Europe (CoE), established in London on 5 May 1949. On 4 November 1950, the European Convention on Human Rights (ECHR) was adopted in Rome. The ECHR signatory states committed themselves to ensuring the fundamental human rights and freedoms specified in the Convention to everyone under their jurisdiction. The rights provided by the Convention gained additional significance with the establishment of the

²⁵ For more, see: Kadidal, S. (2014). NSA Surveillance: The Implications for Civil Liberties, *Journal of Law and Policy for the Information Society*, Ohio State University, Ohio, vol. 10, Issue 2, 2014, pp. 433-480.

²⁶ United Nations (n.d.). Human Rights, <https://www.un.org/en/global-issues/human-rights>.

European Court of Human Rights, as a permanent judicial body, on 1 November 1998, based on Protocol No. 11.²⁷

At first glance, human rights are more protected than ever but one may not claim that they are less violated. There are still regions and states where they are massively breached. In the Amnesty International Report 2022, this non-governmental organization emphasizes that new and renewed armed conflicts, accompanied by murders and rapes, lead to violations of international humanitarian law, while the international community has failed to provide an adequate response in protecting civilians. At the same time, human rights defenders are subjected to repression by state authorities. Gender-based violence and violence against members of sexual minorities remain global problems. In many countries worldwide, the negative impact of the COVID-19 pandemic is still being felt, leading to an increase in the living costs, which further aggravates the situation of vulnerable groups (Amnesty International, 2022:14).

The Republic of Serbia faces certain challenges regarding the protection of human rights. There are continuous attacks on independent journalists. Organizers of Pride Parades encounter threats, which significantly complicates the organization of such events. The prosecution of war crimes is ineffective. The right to assemble is threatened when the gatherings are not supported by the authorities. Human trafficking activities have increased but the response from the relevant state authorities is inadequate, as in the reported case involving over 400 Vietnamese workers, engaged in the construction of a factory in Zrenjanin. Migrants are housed in inadequate facilities and inadequately treated by certain government officials (Amnesty International, 2022:321-322).

State-corporate crime is the next form of state crime. The term was first used in 1990 by Ronald Kramer and Raymond Michalowski, who defined it as "illegal or socially harmful actions that occur when one or more institutions of political governance pursue a goal in direct collaboration with one or more institutions of economic production and distribution" (Tombs, 2016: 224). Illegal activities by corporations occur at the request or with the approval of state authorities, with state actors failing to prevent or respond to such illegality, suggesting a collusion regarding the undertaking of illegal activities. Criminologist Kristian Lasslett (2010) highlighted that state-corporate crime takes place when corporations directly use their economic power to force states into committing illegal actions. State-corporate crime emerges when corporations provide financial resources for criminal acts by state actors or when corporations fail to alert domestic and international communities about state crime because they derive direct or indirect benefits from the behavior of state actors (Tombs, 2016: 224). Thus, we can conclude the interaction between political and economic organizations leads to significant social harm. This points to the existence of an inseparable connection between political actors and economic entities, which often leads to undertaking illegal activities. Some examples of this symbiosis are the trafficking of human beings from Africa to the so-called New World, the exploitation of workers during the early stages of industrialization, and the environmental damage caused by excessive mining (Michalowski, Kramer, 2007: 220-221). A prominent example of state-corporate crime can be found in the explosion of the Space Shuttle Challenger on 28 January 1986, which was the first case of state-corporate crime. The explosion occurred 73 seconds after takeoff, resulting in the deaths of all seven crew members. The shuttle disintegrated at an altitude of 14 kilometers above the Atlantic Ocean, off the coast of Cape Canaveral, Florida. The investigation revealed that the accident was caused

²⁷ CoE Protocol No.11 to the Convention for the Protection of Human Rights and Fundamental Freedoms, restructuring the control machinery established thereby, European Treaty No.155, Council of Europe, 11.5.1994, https://70.coe.int/pdf/library_collection_p11_ets155e_eng.pdf (accessed 4.12.2023).

by a design flaw in the O-ring seal in the solid rocket motor joint, and that the National Aeronautics and Space Administration (NASA) and the corporation Morton Thiokol, Inc. failed to react appropriately to the information regarding the design issue.²⁸

State violence is the last form of state crime. Jeffrey Ian Ross (2003) defined state violence as an extreme "form of political crime, generally consisting of illegal, physically harmful actions committed by coercive organizations of a country, such as the police, national security agencies, and the military, against individuals and groups" (Helfgott, 2008:357). The victims of state violence are typically members of minority groups, political dissidents, criminals, immigrants, and others. This form of state violence may include genocide, torture, deadly force. There are recorded cases where state representatives tortured detainees (Helfgott, 2008:357). A characteristic case refers to events that took place at the Abu Ghraib Correctional Facility in Baghdad during 2003 and 2004 when members of the U.S. military and Central Intelligence Agency (CIA) agents tortured Iraqi detainees, even taking photographs of the abuse. The violence involved tying, raping, sodomizing, threatening detainees with dogs, and administering electric shocks. Some detainees were stripped naked and stacked on top of each other in a pyramid formation, with pressure to simulate sexual poses. During the torture, one detainee, Manadel al-Jamadi, died. The torture was such that al-Jamadi was hung from a window with his wrists bound behind his back for half an hour. This torture technique is known as "Palestinian hanging." The perpetrators showed no signs of remorse, as they took pictures next to al-Jamadi's body, after placing it in ice, with smiles on their faces. The abuse was revealed when American television station CBS News published the controversial photographs in April 2004. Eventually, six U.S. soldiers were sentenced to long prison terms (Mastroianni, 2013:52-65).²⁹ Another prominent case of state violence occurred a few decades earlier in China. In the spring of 1989, protests were held in Beijing's Tiananmen Square by students, intellectuals, and labor activists demanding political and economic reforms. The protests were crushed on the night of 3 June 1989, when the Chinese government declared martial law and deployed troops to take over the square. According to various estimates, several hundred to several thousand people were killed on that occasion (Vámos, 2015: 93-111).³⁰

5. CONCLUSION

Based on the presented material, we can refute the thesis by criminologist Stephen Shafer regarding the notion that political crime is considered a criminological satellite, i.e. a peculiar set of law violations revolving around the concept of common crimes. Namely, it is clear that there is a wide range of different forms of political crime, some of which bring severe consequences for individuals, the society and the state. In other words, the social danger of political crime is immense. Therefore, it follows that there is a great need for further criminological research on this matter in order to uncover as many phenomenological and etiological characteristics of political crime as possible. Only in this way is it ultimately possible to resolve the dilemmas that exist concerning the conceptual definition of this form of crime.

²⁸ For more, see: Kramer, R.(1992). The Space Shuttle Challenger Explosion, In: White Collar Crime Reconsidered. Editors: Schlegel, K. and Weisburd, D., North East University Press, Boston, 1992.

²⁹ For more, see: Mastroianni, G. (2013). Looking Back: Understanding Abu Ghraib, Parameters, US Army War College (USAWC) Press, Pennsylvania, vol. 43, no. 2, 2013, pp. 52-65.

³⁰ For more, see: Vámos, P. (2015). The Tiananmen square "incident" in China and the East Central European revolutions, In: *The Revolutions of 1989 – A Handbook*, (Eds. Mueller W., Gehler M., Suppan A.). Austrian Academy of Science Press, Wien, 2015, pp. 93-111.

REFERENCES

- Amnesty International (2022). *Amnesty International Report 2022/23: The state of the world's human rights*, Amnesty International, London.
- Bartulović, Ž., Randjelović, N. (2012). *Osnovi ustavne istorije jugoslovenskih naroda* (Foundations of the Constitutional History of the Yugoslav peoples), Pravni fakultet, Univerzitet u Nišu.
- Bruce, G. (2013). Definition of Terrorism Social and Political Effects, *Journal of Military and Veterans' Health*, Australia, vol. 21 no. 2, 2013 p. 27.
- Cabrera, C. (1998). *The Soviet penetration of the Manhattan project's Los Alamos laboratory*, Florida Atlantic University, Boca Raton.
- Demarest, G. (1996). *Espionage in International Law*, *Denver Journal of International Law & Policy*, Denver, vol. 24, no. 2.
- Димитријевић, В., *Појам тероризма* (The Concept of Terrorism), *Анали Правног факултета, Правни факултет у Београду*, Београд, бр. 5, 1988, стр. 525-539.
- Димовски, Д. (2024). *Криминална феноменологија* (Criminal Phenomenology), Правни факултет у Нишу, Ниш, 2024.
- Dimovski, D., Stanojević, J. (2013). Political corruption : an example of the United States, U: *Facta Universitatis. Series: Law and Politics*, Vol. 11, no. 2 (2013), pp 93-103.
- Evtuhov, K., Kotkin, S. (2003), *The cultural gradient: the transmission of ideas in Europe 1789-1991*, Rowman & Littlefield, USA.
- Фатић, А. (2008). *Политичка корупција* (Political Corruption), *Ревуја за безбедност*, Центар за безбедносне студије, Београд, 2008. година, број 12, стр. 29
- Ferrari, R. (1919). *Political Crime and Criminal Evidence*, *Minnesota Law Review*, vol. III, no. 6.
- Gaćinović, R. (2017). *Ubistvo kralja Aleksandra Karadordjevića – ustaški teroristički akt* (Assassination of King Aleksandar Karadjordjević- Ustašas' terrorist act), *Vojno delo*, Ministarstvo odbrane Republike Srbije, Univerzitet odbrane u Beogradu - Institut za strateška istraživanja, Beograd, vol. 69, br. 3.
- Helfgott, J. (2008). *Criminal Behavior: Theories, Typologies and Criminal Justice*, Sage, California. (Chapter 9: Political Crime, p.323-366), https://us.sagepub.com/sites/default/files/upm-binaries/19506_Chapter_9.pdf (accessed 26.11.2023).
- Indiana University/Maurer School of Law (1959). Historical Concept of Treason: English, American (Year Unknown). *Indiana Law Journal*, Bloomington, vol. 35, issue 1. Art. 4, available at Digital Repository: <https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=3029&context=ilj>
- Kadidal, S. (2014). *NSA Surveillance: The Implications for Civil Liberties*, *Journal of Law and Policy for the Information Society*, The Ohio State University, Ohio, vol. 10, Issue 2.
- Kasher, A., Yadlin, A. (2005). *Assassination and Preventive Killing*, The SAIS Review of International Affairs, Johns Hopkins University Press, Baltimore, vol. 25, no. 1.
- Kramer, R. (1992). *The Space Shuttle Challenger Explosion*, In: Schlegel, K., Weisburd, D. (Eds.), *White Collar Crime Reconsidered*, North East University Press, Boston.
- Mastroianni, G. (2013). *Looking Back: Understanding Abu Ghraib*, Parameters, US Army War College (USAWC) Press, Pennsylvania, vol. 43, no. 2.
- McLaughlin, E., Muncie, J. (2006). *The Sage Dictionary of Criminology*, Sage Publication, London. <http://ndl.ethernet.edu.et/bitstream/123456789/22935/1/180.pdf.pdf>
- Michalowski, R., Kramer, R. (2007). *State-Corporate Crime and Criminological Inquiry*, In: Pontell, H., Geis, G. (Eds.), *International Handbook of White-Collar and Corporate Crime*, Springer, Berlin.
- Monteske, S. (1989). *O duhu zakona II*, Biblioteka Libertas, Filip Višnjić, Beograd, 1989.
- Naumovski, G., Prodanov, N. (2019). *Istorijski razvoj delikta protiv države u starom Rimu* (Historical development of offences against the state in Ancient Rome), U: *Zbornik radova Pravnog fakulteta u Nišu*, br. 83, 2019, 93-104.
- Nikolić, D. (2012). *Istorija prava starog i srednjeg veka* (History of Ancient and Medieval Law), Pravni fakultet, Univerzitet u Nišu.
- Pavlović, M. (2005). *Srpska pravna istorija* (Serbian Legal History), izd. Nadežda Pavlović, Kragujevac.
- Randjelović, N. (2012). *Istorija prava II*, (History of Law 2), Centar za publikacije, Pravni fakultet, Univerzitet u Nišu.
- Randjelović, N., Todorović-Krstić, M. (2009). *Odabrani izvori iz državopravne istorije južnoslovenskih naroda* (Selected sources from the history of the state and law of the Southern Slavs). Zavod za udžbenike, Beograd
- Schafer, S. (1971). *The concept of the political criminal*, *The Journal of Criminal Law and Criminology*, Northwestern University School of Law, Chicago, vol. 62, no. 3.
- Shankar, R. (1969). *The Story of Gandhi*, Children's Book Trust Nehru House, New Delhi.
- Smith, A., Yim, C., Kahloon, M. (2022). *The Crime of Sedition: At the Crossroads of Reform and Resurgence*, Columbia Law School, New York.
- Tombs, S. (2016). *State-Corporate Crime and Harm*, In: Corteen, K., Morley, S., Taylor, P., Turner, J. (Eds.), *A Companion to Crime, Harm and Victimisation*, SAGE Publications, California.

- US Senate (1976). The Investigation of the assassination of president John F. Kennedy: performance of the intelligence agencies, Final report of the select committee to study governmental operations with respect to intelligence activities, US Senate, U.S. Government printing office, Washington, 1976.
- Vámos, P. (2015). *The Tiananmen Square "Incident" in China and the East Central European Revolutions*, In: Mueller, W., Gehler, M., Suppan, A. (Eds.), *The Revolutions of 1989 – A Handbook*, Austrian Academy of Science Press, Wien.
- Vincent, J. (1985). *Manhattan: The Army and Atomic Bomb*, Center of Military History, Washington.

Legal Documents

- CoE European Convention on Human Rights (1950), Council of Europe, Strasbourg, https://www.echr.coe.int/documents/d/echr/Convention_ENG, accessed 27.11.2023
- CoE Protocol No.11 to the Convention for the Protection of Human Rights and Fundamental Freedoms, restructuring the control machinery established thereby, European Treaty No.155, Council of Europe, 11.5.1994, https://70.coe.int/pdf/library_collection/p11_ets155e_eng.pdf (accessed 4.12.2023).
- US Code: Title 18 U.S. Code § 2384 - Seditious conspiracy Cornell Law School, Legal Information Institute, <https://www.law.cornell.edu/uscode/text/18/2384>, accessed 29.11.2023.
- US Congress (n.d.) US Constitution Annotated: Article III- Judicial Branch, <https://constitution.congress.gov/browse/article-3/section-3/>, accessed 30.11.2023
- Ustav Republike Srbije 2006/2021 (the Constitution of the Republic of Serbia), *Službeni glasnik RS, br. 98/2006 i 115/2021*.
- Zakon o javnom okupljanju (2016) (the Public Assembly Act), *Službeni glasnik RS, br. 6/2016*.
- Digesta: *Digest of Justinian* 48.4.1. <https://latin.packhum.org/loc/2806/2/376#376>
- The Treason Act 1371, The Law Commission, London, 1977, 7-10
- Устав Краљевине Србије (The Constitution of the Kingdom of Serbia), 1888, чл. 13.

Online Sources

- California Department of Education (1995). Martin Luther King, Jr. 1929-1968 (1995). *California Department of Education*, Sacramento, Golden Gate University School of Law, 1995. <https://core.ac.uk/download/pdf/233105222.pdf>
- Encyclopaedia Britannica (2021). January 6 U.S. Capitol attack, Washington, D.C., U.S. [2021], 4 Aug. 2021, <https://www.britannica.com/event/January-6-U-S-Capitol-attack>, (accessed 29.11.2023).
- Encyclopaedia Britannica online (2023). French history. <https://www.britannica.com/topic/lettre-de-cachet>, (accessed on 1 March 2025).
- Historic.UK (n.d.) Lord Haw-Haw: The Story of William Joyce, <https://www.historic-uk.com/HistoryUK/HistoryofBritain/Lord-Haw-Haw-William-Joyce/>, (accessed 30.11.2023).
- OAH/Organization of American Historians (n.d.). Abolishing Abortion: The History of the Pro-life Movement in America, <https://www.oah.org/tah/november-3/abolishing-abortion-the-history-of-the-pro-life-movement-in-america/>, (accessed 27.11.2023).
- The Spokesman Review (2004). Greenpeace goes on trial today under old 'sailor-mongering' law, May 17, 2004, <https://www.spokesman.com/stories/2004/may/17/greenpeace-goes-on-trial-today-under-old-sailor/>, (accessed 28.11.2023).
- United Nations (n.d.). Human Rights, <https://www.un.org/en/global-issues/human-rights>, (04.12.2023).
- Vox.com (2023). The Courts are sending a message: January 6 insurrectionists will answer for their crimes. More Proud Boys have been convicted, 5.5.2023, (accessed 29.11.2023) <https://www.vox.com/politics/2023/5/5/23712755/proud-boys-sedition-trial-verdict-conviction-january-6-attack-trump>

POLITIČKI KRIMINALITET

Autori rada na početku rada ističu da politički kriminalitet nije bio često predmet kriminoloških istraživanja. Međutim, kako se radi o fenomenu koji ima nesagledive posledice po jedno društvo, neophodno je posvetiti pažnju pregledu naučne misli u vezi ove teme. Najpre je dat pravnoistorijski pregled političkog kriminaliteta kroz različite periode. Nakon otklanjanja svih nedoumica u vezi pojmovnog određenja političkog kriminaliteta, u radu se predstavlja tipologija političkog kriminaliteta i različiti pojavi oblici, kroz navođenje adekvatnih primera i slučajeva političkog kriminaliteta. U završnim razmatranjima autori ističu potrebu za nastavkom sprovođenja kriminoloških studija o ovom obliku kriminaliteta.

Ključne reči: *politički kriminalitet, fenomenološke karakteristike, pojavi oblici.*