систем. Саме прагнення до окреслення освітніх стандартів і нострифікації дипломів у європейському контексті визнається доречним.

Завдяки такому аналізу можна простежити закономірності і перспективи розвитку законодавства про вищу освіту як України, так і Європейських країн. Це дає нам реальну можливість віднайти шляхи вдосконалення рівня та якості освіти.

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PROBLEMS IN CRIMINAL LAW (C.J.S)

There are various sectors under Criminal Law and each of them has its own problem. I am focusing on "The problems in the Criminal Justice System". In case you are wondering what the Criminal Justice System is, it is the system of practices, agencies, institutions, that are established by the government, which seeks to regulate, control crime, minimize crime and impose penalties on those who violate the law by commission of crimes:

1. LEGAL PRACTITIONERS ABUSE OF UNRESTRAINED POWERS.

Here's how it's supposed to work: Upon evidence that a crime has been committed - Professor Plum, found dead in the conservatory with a lead pipe on the floor next to him,

say - the police commence an investigation. When they have probable cause to believe that someone is guilty, the case is taken to a prosecutor, who (in the federal system and many states) puts it before a grand jury. If the grand jury agrees that there's probable cause, it indicts. The case goes to trial, where a jury of 12 ordinary citizens hears the evidence. If they judge the accused guilty beyond a reasonable doubt, they convict. If they think the accused not guilty - or even simply believe that a conviction would be unjust - they acquit.

Here's how things all-too-often work today: Law enforcement decides that a person is suspicious (or, possibly, just a political enemy). Upon investigation into every aspect of his/her life, they find possible violations of the law, often involving obscure, technical statutes that no one really knows. They then file a «kitchen-sink» indictment involving dozens, or even hundreds of charges, which the grand jury rubber stamps. The accused then must choose between a plea bargain or the risk of a trial in which a jury might convict on one or two felony counts simply on a «where there's smoke there must be fire» theory even if the evidence seems less than compelling. This is why, in our current system, the vast majority of cases never go to trial, but end in plea bargains. And if being charged with a crime ultimately leads to a plea bargain, then it follows that the real action in the criminal justice system doesn't happen at trial, as it does in most legal TV shows, but way before, at the time when prosecutors decide to bring charges. Because usually, once charges are brought, the defendant will wind up doing time for something. The problem is that, although there's lots of due process at trial - right to cross-examine, right to counsel, rules of evidence, and, of course, the jury itself, which the Framers of our Constitution thought the most important protection in criminal cases - there's basically no due process at the stage when prosecutors decide to bring charges. Prosecutors who are out to «get» people have a free hand; prosecutors who want to give favored groups or individuals a pass have a free hand, too. When juries decide not to convict because doing so would be unjust, it's called «jury nullification», and although everyone admits that it's a power juries have, many disapprove of it. But when prosecutors decide not to bring charges, it's called «prosecutorial discretion», and it's subject to far less criticism, if it's even noticed. As for prosecutorial targeting of disfavored groups or individuals, the general attitude is «if you can't do the time, don't do the crime» [3].

Police abuse: Although we hope our Police use their power judiciously, misconduct can occur. Police misconduct can be as subtle as an implied threat for failing to cooperate or as overt as the beating of Rodney King. Often, the police are under great pressure to act quickly, especially when the murder victim is white, prominent, a child or a police officer. Often, the police develop a theory of the crime and then search out evidence–and suspects–that support that theory. Then, when they arrest someone, they proceed as if the suspect is already guilty. «The mentality and the pressure are to not let the guilty guy go free,» Chief of Police Friel, of Bensalem, Pennsylvania, explains. «You block out anything that doesn't fit… You feel you have no obligation to bring up evidence pointing to others. Why cloud the issue? Sometimes, the scenario is not so benign. «Two men who claimed to have been the only witnesses to the 1978 San Bernardino murder of a police officer's son now say they actually saw nothing, but were pressured by police into giving false testimony that has kept an innocent man in prison for 13 years,» begins a recent article in the Los Angeles Times. The fact that the victim

was the son of a police officer greatly increases the likelihood of such misconduct. According to the article, one of the witnesses gave the police what they wanted only after being handcuffed to a motel room bed during 24 hours of questioning. Before trial he recanted, but the district attorney allegedly covered it up so the defense never learned of the recantation [1].

2. DEATH PENALTY. The death penalty breaches two essential human rights: the right to life and the right to live free from torture. Both rights are protected under the Universal Declaration of Human Rights, adopted by the UN in 1948. The following international laws explicitly ban use of the death penalty, except during times of war:

The Second Optional Protocol to the International Covenant on Civil and Political Rights.

Protocol No. 6 to the European Convention on Human Rights.

The Protocol to the American Convention on Human Rights to Abolish the Death Penalty.

The European Convention on Human Rights (Protocol No. 13) bans use of the death penalty at all times, even during war [2].

Executing of the innocent: Throughout history there have been concerns about innocent people being wrongfully executed. As Justice Stewart stated, "The penalty of death differs from all other forms of criminal punishment, not in degree, but in kind. It is unique in its total irrevocability" (Furman v. Georgia). In 2000, such worries prompted Governor George Ryan to call a moratorium on all executions in his state of Illinois. His decision was the result of disturbing evidence that many inmates on death row were in fact innocent of the crimes they were convicted of or at least accused of based on faulty evidence. According to Ryan, the criminal justice system is so flawed that innocent people are regularly given the death penalty. While many steps can be taken to improve the system, given human frailty, he maintained, we can never guarantee that only the guilty will be executed. His decision sparked a national debate on the issue [4].

Racial Bias: Another critical public policy issue surrounding the death penalty in the U.S. is whether it is imposed unfairly with racial bias. The issue first came to light in the 1987 Supreme Court case, McCleskey v. Kemp. The defendant, Warren McCleskey, was a black man who was sentenced to death some years earlier in Georgia for killing a white police officer. On appeal to the Supreme Court, McCleskey's attorney argued that the sentence was the result of racial bias. To support his case, he relied on research by law professor David Baldus who studied over 2,000 murder cases that went to trial in Georgia during the 1970's, the period in which McCleskey committed his crime. Among Baldus's findings were, first, murderers were 4.3 times more likely to receive the death penalty if their victims were white rather than black. Thus, in the eyes of the justice system, the lives of black victims count less than the lives of white ones. Second, when victims were white, the murderers who were black were more likely to receive the death penalty than white murderers. Thus, in the eyes of the justice system, more leniency was shown to white killers than to black ones. Ultimately, the Court ruled against McCleskey. While the Court agreed that there were racial disparities in how the death penalty was carried out in Georgia, they held that it did not violate McCleskey's constitutional right of equal protection under the law. Convicts like McCleskey cannot argue that they have been wronged because of a general pattern of racial bias; rather, a convict must show that race affected his or her specific case. McCleskey was executed in

1991. Although Baldus's findings were restricted to Georgia's death penalty cases in the 1970s, other studies draw similar conclusions about more recent death penalty convictions nationwide. Currently more than half of all people on death row are people of color, most of whom are black. A 2006 study by a Stanford University research team concluded that black male murderers found guilty of killing a white person were more than twice as likely to get the death penalty when they had stereotypically black-looking features, such as darker skin [4].

Racism is often the motive for official misconduct.

In January, 1990, Clarence Brandley was released after spending nearly a decade on Texas' death row for a crime he did not commit. The misconduct in that case involved every level of government, from the police who threatened witnesses to prevent them from testifying for Brandley, to the trial judge and the prosecutor who held secret meetings to rehearse objections and rulings, to the state attorney general who lied about the results of a lie detector test. What enabled Texas' officials to pursue Mr. Brandley with such single-minded disregard for facts, fairness and basic justice was that the victim in the case was a white school girl who had been raped and murdered. The likely suspects were the school's janitors, one of whom–Clarence Brandley–is black. In 1987, U.S. District Court Judge Perry D. Pickett held that Brandley "did not receive a fair trial, was denied the most basic fundamental rights of due process of law, and did not commit the crime for which he now resides on death row… The court unequivocally concludes that the color of Clarence Brandley's skin was a substantial factor which pervades all aspects of the State's capital prosecution… In the 30 years this court has presided over matters in the judicial system, no case has presented a more shocking scenario of the effects of racial prejudice, perjured testimony, witness intimidation, an investigation the outcome of which was predetermined, and public officials who, for whatever motives, lost sight of what is right and just" [1].

3. EVOLVING TECHNOLOGY. The human understanding of science improves virtually every day. Some conclusions that seemed a certainty yesterday are disproved today by new and improved scientific methods. The same has happened with forensic science. Every year we have access to better and updated information than we had the year before. The finality of the death penalty negates the evolution of human and scientific understanding of cases. The result - Innocent people can and will be executed. DNA technology was a major break-through in science. It proves that better and more accurate science may be just around the corner – science that may help exonerate those who are wrongfully convicted of crimes. However, DNA evidence is rarely available and is subsequently used in less than 15% of capital murder trials. Advances in technology, such as DNA, supersede old and outdated science – science which is believed accurate at the time when it is presented. It helps disprove unintentional scientific errors or intentional false scientific ("expert") testimony. Several recent cases of innocent men convicted (and later found to be innocent) were cases involving "junk science" - science or expert testimony thought to be accurate at the time and later proved to be erroneous, misleading, or fiat-out wrong. Executions preclude any scientific advances. The preclude any new evidence, any new understanding, and any possibility of correcting false or misleading scientific information in the case – information that may lead to the execution of an innocent person [1].