History of the criminal accusation process
Synthesis of the development of criminal charges in time and space

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Abstract

In order to completely understand the prosecution in a criminal case, it is necessary to analyze its development in time, presenting at the same time its characteristics in different parts of the world. This component of a criminal process has experienced numerous changes from ancient times until nowadays. Such changes have been simulated by the developments of the organizing and functioning of states and simultaneously even by the cultural, historical and social specifics of various countries.
This paper will cover the investigation and the indictment, in different historical periods, various states, starting from antiquity until the 19th century. The analysis objectives will be the specifics demonstrated by diverse law systems, concretely of the "civil law" and the "common law" systems, in relation to the criminal prosecution. A presentation of the evolution of this phase of a criminal process will help to better understand its features in actual times. At the same time, such analysis could create a base for the explanation of differences between the systems of law regarding investigation and indictment.

Keywords: Criminal prosecution, indictment, antiquity, middle-age.

Introduction

From antiquity to modern times, the process of bringing criminal charges against someone and proving them has undergone an extraordinary evolution, that has walked in the footsteps dictated by the needs of the state and society. Thus, the stage of representing the prosecution in front of the body in charge of ruling on the matter has changed. In antiquity, the chargeswere entirely private and any individual had the right to accuse another person, and subsequently collect evidence against him/her and seekfor his/her punishment. State structures were not involved in the criminal prosecution processes, save for some countries for specific cases related to top state levels' interests.
During the Middle Ages, criminal accusation continued to be entrusted to the individual, being thus still viewed as a private matter. But due to shortcomings with this system and challenges presented in terms criminal prosecuting offenses, in conditions where the need to penalize illegal acts increased in the society, the role of state organs in the investigation and criminal prosecution phase also increased. During the 13thto the 18th centuries, in different countries, different models of the accusing process could be found. Thus, in Florence of the 13thto the 15thcenturies, an increase of the role of the courtwas noted, which,while implementing the inquisitorial system, took a central role, not only during the conviction and execution stage, but acquired an enhanced role also during the criminal investigation and prosecution

stage. During the Napoleon rule in France, the King's Prosecutor was envisaged as a body, placed at the centre of the investigation, but yet subordinated to the investigating judge, who was also an important player in the criminal prosecution process.
Even in countries where the legal order was based on the "common law" system, the switch of the accusation process from a private matter to a public one could be observed. The role of the individual has always been on the decline while the state influence within criminal prosecutionwas strengthened, by introducing and empowering the role of the prosecutor.
Below there is a review of the accusation process from the antiquity period to the 19thcentury in different countries. This review will be accompanied by the history of development of criminal prosecution in Albania.

Criminal prosecution in antiquity

Accusation in Babylon

In Babylon, in the 18th century B.C, The Code of Hammurabi would provide for the way how criminal charges could be brought against someone, how they had to be proven, and consequences of proving the guilt or innocence. More specifically, paragraph 2 and 3 of the Code provided that: "2. If anyone brings a charge against a person and the accused goes to the river and is thrown into it, if he drowns in the river, then the accuser shall take possession of his house. But if the river proves that the accused is not guilty and he escapes without harm, then the accuser shall be killed and the accused who managed to jump in the river shall take ownership of the accuser's house. 3. If a person brings a charge for any crime before the elders and fails to prove that charge, if it is a charge of capital breach, he shall be killed."
Given that the Code of Hammurabistates "if anyone brings a charge," it can be concluded
that in 18thcentury BC, in Babylon, the charges could be brought by any person. The charges could be brought by directly addressing the accused person, or before the elders. In the first case, the accused did not have the duty to prove the breach as the proving was realized by relying on natural factors, namely whether the accused survived the river test or not. Whereas when the charge was filed before the elders, the accused had the burden of proof, or he would otherwise be killed.

Accusation in ancient Egypt

A.J. van Loon explains that in ancient Egypt the right to criminally prosecute someone was not limited only to the victims of a crime, but other persons could also take on this task on behalf of third parties. The criminal prosecution of injustice, A.J van Loonadds, was a civic duty and thus, a citizen could represent the interests of the community (Loon, 2014).
After a crime was reported, Knbt would investigate the case, possibly arrest and interrogate people, under oath.Referring to a publication by John Bauschatz on the police system at the time of the Ptolemaic Dynasty in Egypt, A.J. van Loon says that he justifies the use of another modern term, using the following clear definition"I understand a police force as a government body charged with these three main tasks: investigation, understanding and criminal prosecution. Therefore, I understand

policing as the performance of the police duties (Loon, 2014).
In the case of murder, it was the victim's family members who had to find the assassin and bring the action against him to court. However, in some cases, such as the killing of a state official, the state would pursue the criminal prosecution against the accused (Loon, 2014).
It is thus found that in ancient Egypt the criminal prosecution was an action taken by any individual, certain persons assigned as representatives, by the police and judicial/executive councils or otherwise knbt. In cases involving the killing of state officials, the accusationwould be pursued by state officials.

Accusation in ancient Rome
In the Roman legal system, state prosecutors were missing. The crimes were prosecuted by any individual with sufficient legal training on the matter.
Proceedings were often politically motivated, but the prosecutor who would mistakenly bring charges against someone could be sued on the basis of Lex Remmia de calumnia (Long, 2010) if the accused was declared not guilty. In that sense, calumnia resembled to a defamation charge (Lafleur, 1981; Galsterer, 1996). When an accuser failed to prove his allegations and reus,and the accused was released from the charges,there could be an investigationinto the conduct and motivations of the former. If the person who conducted the judicial investigation found that the accuser had acted due to an error in the trial, he would release him from the charge in the “non probasti” form;if he condemned him for malicious purposes, he would declarethe sentencing ruling with the words "calumniatuses", a ruling that was accompanied by legal punishment(Long, 2010).
After 115 BC, a trial was conducted against defendant M. Aemilius Scaurus, a Roman consul, where the role of the prosecutor was exercised by M. Iunius Brutus (Badian). In that trial Scaurus was accused of "lexAcilia de repetundis". "Repetundis" was the process of property restitution that had been illegally appropriated by Roman officials (Gildenhard 2011). The charges on this trial included Scaurus's actions while holding the Praetorian command before 116 BC (Alexander, 1990).
Another important trial held in Ancient Rome, during January-October of year 70 BC was
the one against Verres, the Governor of Sicily (Alexander, 1990)who was accused by Cicero, a state man, a lawyer, scholar and writer of illegal appropriation of assets (Balsdon, Ferguson, 2018). After it was ruled that Cicero would pursue the criminal prosecution against Verres, he was allowed a hundred and ten days to prepare the evidence, for which he went to Sicily himself to examine witnesses and gather evidence in support of his allegations, with his cousin Lucius Ciceron as an assistant (Yonge, 1903). In Syracuse, the Praetor Metellus tried to hinder him in his inquiries, but the magistrates accepted him with great respect and, by stating to him that all they had done before in favour of Verres (because they had erected a nude statue of himand sent a testimony of his good conduct and good governance to Rome) was extorted from them by intrigues and terror; they handed over to him authentic accounts of the many wounds that their city had suffered from Verres and annulled by an official decree the public praise they had given to him (Yonge, 1903).

Jury members at the Verres trial included a large number of people, such as M. CaeciliusMetellus, M. Caesonius, L. Cassius Longinus, C. Claudius Marcellus, Q. Cornificius and others. The defence counsel refused some of the members of the jury, and likewise the prosecution(Alexander, 1990). The defence counsel and prosecution also rejected a part of the summoned witnesses(Alexander, 1990).

In his speech, Cicero showed that it was very necessary for him to make therepresentation of the accusation for which he was pushed by the opposing side's intrigues. That's why he encouraged the judges not to be intimidated or tempted to make an unfair ruling and threatened the contesting opposing party with punishment for attempts to corrupt judges (Yonge, 1903).

The above data show that Cicero, in the quality of the prosecutor, had the right to investigate and collect evidence to prove the charges. He had the right to question witnesses and receive written evidence. It is also noted that during the trial in ancient Rome the prosecution had the right to refuse witnesses or jury members, summon witnesses and question them. Another important element of the trial was the speechdelivered by the prosecutor to prove the charges against the accused person.

Accusation in ancient Greece

One of the most important sources where information about the accusing process in ancient Greece can be found is "Aristotle on the Constitution of Athens" (Kenyon). Several parts of this document present elements of criminal prosecution, which give anoverviewof the way criminal charges were brought, the process of proving the charges, the person who raised and represented them, and before which body this representation was made.

When speaking to Pericles, for whom Aristotle would state that he emerged as apopular leader, he would add that: "Some critics accuse him of having caused a deterioration of the character of the juries, since the simple people are the ones would to Rome be offered to be elected as jury members, instead of better-positioned men. Moreover, bribe came into existence after that, the first person who introduced it was Anytus, after his command at Pylos. He was criminally prosecuted by some individuals due to his defeat at Pylos, but managed to escape corrupting the jury " (Kenyon).

From this part of the material it is found that the criminal prosecution against Anytus was

exercised by some individuals, for whom Aristotle does not state that they had a state duty.Aristotle also describes the jury for which every man had the right to nominate himself, regardless of his social position. The person bringing the charges would represent it before the jury.

When describing Archon, Chief of magistrates in ancient Greece **(**The Editors of Encyclopaedia Britannica)**,** Aristotle states: "The lawsuits and indictments that come before him and which he, after a preliminary investigation, brings before courts, are as follows: harming the parents; harming the orphans; etc.. "(Kenyon). From the data described it is found that charges were initially brought before Archon, who subsequently would make a preliminary investigationand then present the case to court.

Aristotle, in section 59 of his paper, deals with "Thesmothetae", who firstly had the power to determine the dates when the courts would gather; all indictments would came before them, namely "Thesmothetae", where a deposition from the prosecutor should be made, namely indictments for hiding the foreign origin, for corrupt evasion of foreign origin, etc ... (Kenyon).This fragment of Aristotle's paperintroduces another body before which the prosecutor could file criminal charges, namely "Thesmothetae". An important review on the way the jury members would declare the guiltor not of the defendant is described by Aristotle in section 69 of the book "Aristotle on the Constitution of Athens". Thus, this section describes that: "When all members of the jury have voted, the members collect the "urna" containing the effective votes and entering them into a table with many spaces as the voting balls, so the effective votes, either drilled or solid, could be clearly displayed and easily calculated. Then the officials assigned with the collection of the votes, show them on the table, by splitting the solid ones in one place and the pierced ones in another, and the announcer announced the number of votes, the pierced ballot papers which are for the prosecutor and the solid ones,for the defendant. The one who had the majority was the winner; but if the votes were equal, the final decision was for the defendant (Kenyon). From the voting procedure it is confirmed once again that the body before which the prosecutor presented the charges was the jury. The accuser had to establish the belief among more than half of the jury members about the truthfulness of the charges.

The trial of Aeschines against Timarchus

Another case conducted in ancient Greece, is that of Aeschines vs. Timarchus, which was conducted in year 346 BC. In essence, this was an attempt to save the lives of Athenian delegates at Philip II of Macedonia. Demosthenes had led an assaultagainst them, and apparently, Timarchus, one of Demosthen's allies, was assigned to pursue the criminal prosecution. The delegates, surrounded in the face of death, responded by criminally prosecuting Timarchus, by accusing that according to the Athenian law, he could not hold a public duty because he had practiced prostitution. The proceeding was successful. Timarchus was expelled from duty (Adams, 1919).
In his speech against Timarchus, Aeschines would say:
"I never, citizen companions, brought charges against any Athenian, nor have I challenged any man when he was offering the service of his office; but in all these issues I, as I believe, have shown myself a quiet and humble person. When I saw that the city was being severely harmed by the defendant, Timarchus, who, although disqualified by law, was speaking at your meetings and when I myself became a victim of his blackmailing attack, the kind of attack which I will show alongmy speech ... I decided that it would be a very shameful thing if I did would not come to the defence of the whole city and its laws, and for your protection and mine; and knowing that he was liable for the charges which you heard being read a while ago by a court clerk, I drafted this lawsuit, challenging him in official control. So, it appears my fellow city companions, that what is often said about public lawsuits, is not a mistake, that very often private animosities correct public misconduct." (Adams, 1919).

An analysis of the above fragment, reveals several important elements of the accusation system in Ancient Greece. So, first of all, based on the expression "I decided that it would be a very shameful thing if I would not come to the defence of the entire city, and its laws, and for your protection and mine" it is concluded that the beginning of the accusation was a moment related to the willof the individual, meaning that any person had the possibility to decideto prosecute another person. The accusing person would filea lawsuit, which he would lodge with the court. On the trial day, the indictment was initially read by the court clerk, and the then the accuser would deliver his remarks.

In his address, Aeschines follows, saying: "The truth of this story is known to all who knew Misgolas and Timarchus in those days. Indeed, I am very happy that the lawsuit by which I am prosecuting a man who is not unknown to you and known for anything else but precisely the very practice for which you will make your own decision. In the case of facts which are not generally known, the accuser has the duty, I suppose, to make his evidence clear, but when the facts are known, I think it is not very hard to pursue criminal prosecution, for it only needs to be called to the memory of the listeners. How did he manage his property? He has eaten his fortune, has he consumed all the salaries of his prostitution and all the fruits of his bribe, so nothing is left with him but shame? Whom you want him to be with? Hegesandrus! And what are the habits of Hegesandrus? The habits that exclude a man by law from the privilege to address to the people. What am Isaying against Timarchus and what is the charge I have brought about? Timarchus addresses the people, a man who has become a prostitute and consumed his wealth. And what is the oath you have made? To make your decision on the exact charges brought by the criminal prosecution"(Adams, 1919).

From the above section it is found that the person who brought the charges had the duty to prove them. For this purpose, he should present the relevant evidence. But in the case of Timarchus, his accuser Aeschines, was being based on facts which, as far as it is understood, were known to the public. Aeschines has used this fact to create the conviction that Timarchus has exercised prostitution and consequently could not carry out public duties.

The trial of Socrates (Linder)

In the case of Socrates, the procedure began when Meletus, a poet, handed over to Socrates a verbal summon in presence of witnesses (or notifiers). The summon required Socrates to appear before the legal magistrate, or King Archon, in a colonial building called Stoa Royal to answer to the charges for religious mistrust. After Arkoni, following the hearing of Socrates and Meletus, decided that the lawsuit was allowed under the Athenian law, a date was assigned for the "preliminary hearing" (anakryis) and the conditions for the hearing session were announced as a public announcement at Stoa Royal.

The trial began in the morning with the reading of the official charges against Socrates by a messenger. There were, few, if any, formal rules on evidence. The accusers presented their first case. Meletus, Anytus and Lycon had three hours, measured by

a water clock, to make their own arguments to establish the guilt. Each accuser spoke from an elevated platform.
If a defendant was convicted, the trial entered a second stage to impose a sentence. The accuser and the defendant would each proposea sentence and the jury would choose from the two options presented. The sphereof possible punishments included death, imprisonment, loss of civil rights (i.e. the right to vote, the right to serve as a jury member, the right to speak in the Assembly), exile and fines. At the trial of Socrates, the main accusers proposed the death penalty. Socrates, if Plato's argument was to be believed, first proposed the punishment - or not punishment - of free meals at the centre of the city, then later the very modest fine of one silver mina. Apparently, finding the proposed Socrates' sentence light, up to insult, the jury voted for the "death penalty" of the accusers.
Based on the data from Socrates'trial, it is established that also in ancient Athens, likewise in ancient Rome, chargeswere brought and defended by any citizen. First, the accusers had to convince the legal magistrate or the King of the grounds of their allegations. If the chargeswere allowed by the law, the accusers would have to convince the jury in relation to the guilt and propose the appropriate punishment for the accused.

Accusation in the 13th to the 18th century

Accusation in Florence during MiddleAges and Renaissance

A review of the handling of the accusation process in the middle Ages is important to complete this paper with the features characterizing such a process during that period. The analysis of the criminal prosecution in Florence as one of the most developed cities among the states part of the "civil law" system, helps to create a natural connection between the ancient period and modern one,as far as the accusation stage is concerned.
Author Laura Ikins Stern has published a paper which given a comprehensive and detailed overview on this issue. Her study introduces elements of criminal prosecution during the period of inquisition in Florence. Thus, Stern explains that from the mid-13thto the early 15thcentury, the court system would investigateand definethe content of objective facts and truths, and had the right to initiate and proceed the cases *ex officio* (Stern 2017). While the public nature of the crime became more popular in Florence in that period, the judge took a greater role in the trial to ensure that the case was followed properly. The conduct of the inquisition procedure in Florence began in the middle until the end of the 13thcentury and stopped when civil courts were established. The latter began to dealwith the most important cases, leaving foreign rectors to handle the least important ones (Stern 2017).
Stern explains the role of foreign rectors,who were usually from other Italian city-states, traveling from one Italian city to another, with the escort of the judicial officials, and initially reading the statutes and then administering justice for a short period of time(Stern 2017). When the state assumed the primary responsibility for prosecution,it began to gather information about the trial. The law changed from

being mainly private to mainly public. Under these conditions, a much more active judiciary was enabled. Developments in the law were caused, or at least complemented, by developments in the state (Stern 2017). Laura Ikins Stern analyses that while the state became more centralized and organized, the same happened to the judiciary. The judicial system became so efficient that the investigation underwent a transition, transforming itself into supervision where civil courts allowed political influence to be decisive (Stern 2017).

Stern describes the inquisitorprocedure by analysing that the courts of three foreign rectors conducted their criminal trials using the inquisition procedure, a court procedure in which the judicial system had the ability to initiate and prosecute cases *ex officio*, and could also accept charges. State courts were responsible for most of the proceedings: gathering of information, summoning witnesses, evaluation of evidence, conviction and execution. Usually, also initiations were done by the state (Stern 2017). When a crime was committed and there was no one bringing any charges, courts would startthe proceedings. This feature of the inquisition procedure, namely the lack of its dependence on the private accuser, encouraged a transition from the "crime as a private matter" to the "crime as a public matter" (Stern 2017). Likewise, Stern concludes that, at the proving stage during trial, the inquisitorial procedure encouraged the development of independent investigative methods, such as the routine dispatch of police forces assigned by rounds, to gatherinformation, connectwitnesses with the crime scene, summoning these witnesses to appear before the court. (Stern 2017).

Despite the increasing use of public initiation, at the end of the 14thcentury and beginning of 15thcentury, the Florentine judicial system continued to encourage private accusation. In cases initiated by private accusations, the accused would release the state from the defence efforts and costs. Non-privately prosecuted crimes became public matters and could be prosecuted *ex officio* by the rectors (Stern 2017).

Based on the analysis made by Stern, it is noted that in the Middle Ages Florence, the role of the court in the conduct of investigations marked significant development. These changes were adapted to the aim of the state apparatus to increase participation in criminal prosecution and concentrate it in its own structures. This was accompanied by a reduction of private involvement of the individual in the criminal accusation process.

Prosecution office in France during the Napoleon Bonaparte period

From all the codification processes conduced in France in Napoleon Bonaparte's time, the process that led to the 1808 "Code d'Instruction criminelle" is perhaps the most extraordinary for a number of reasons. It was the product of a long process of maturation, which joint together the revolutionary principles with the customs developed during the ancient regime and codified by the Saint Germain Regulation in Laye in 1670 (Clémence, 1808). The "Code d'Instruction criminelle" among others, provided also for the prosecutor as one of the officials in charge for the criminal investigation and prosecution. He was one of the procedural parties which the judicial

police was subordinated to, for matters under his authority.[1]
The prosecutor wasnamed the "King's Prosecutor" and was responsible for investigating and prosecuting all recognized criminal offenses in the Courts of Correctional Police or the Assize Courts.[2] The power to investigate and prosecute the offences also belonged to the King's Prosecutors of the place of the felony or misdemeanour, that of the residence of the accused and that of the place where the accused could be found.[3] In exercising their functions, they had the right to request public power directly. The King's prosecutor had his deputies, who replaced him in dismissal cases. When there was no deputy, he had substitute members, who would replace him in cases of dismissal. In case there as not substitute, he was replaced by a judge assigned for this purpose by the president.[4]
In the royal court, also the General Prosecutor was appointed, who should have been informed by the King's Prosecutors as soon as the latter learned of the criminal offense. The General Prosecutor's orders were mandatory for the King's Prosecutors, who would assign the judicial police for their execution.[5]
In addition to the report with the General Prosecutor, the King's prosecutor had a subordination relationship also with the investigating judge. The latter, who was part of the investigative structures in France during the rule of Napoleon Bonaparte, had the authority to issue orders for which the prosecutor would make sure that they were sent and notified.[6]
The King's prosecutors at the court of the place where the crime had occurred or where the defendant could be found,had to immediately be notified by any state authority, official or public officer, in cases when they would become aware of the commission of a crime.[7] In cases of flagrancies, when the act was punishable by a painful punishment, the King's prosecutor would be transported to the place, without delay, to draft the necessary minutes in order to record the breach, its state of affairs, the state of the place and collect statements of people who would be present or who would have information to supply. The public prosecutor had to notify the instruction judge for his transportation, without being necessary to wait for him to proceed.[8] Thus, the powers of the prosecutor to conduct investigations and criminal prosecution were regulated.

Common Law system

An important paper related to the origin of the Public Prosecution Office in Common Law is provided by John H. Langbein. Langbein's book deals with the very early stages of emergence of the prosecutor's figure and the evolution of his role throughout history in countries belonging to the Common Law system. A valuable

[1] Article 9 of "*Code d'Instruction criminelle* of 1808".
[2] Ibid. Article 22.
[3] Ibid. Article 23.
[4] Ibid. Article 26.
[5] Ibid. Article 27.
[6] Ibid. Article 28.
[7] Ibid. Article 29.
[8] Ibid. Article 32.

finding of the above scholar on the fact that no matter how essential he may seem, the public prosecutor was a historical delay. Judge and jury may be traced back to the early Middle Ages, but the prosecutor became a regularfigure in Anglo-American criminal proceedings only in Tudor's time (Langbein, 1973). Langdon, given that the prosecutor's offices for which the judges of peace were a sixteenth-century creation, while the crime itself was not a novelty in those years, raises the question of how then had the English managed during the Middle Ages to provide a figure of the public prosecutor (Langbein, 1973)?

In response to the above question, John H. Langbein presents the timely development of the investigative phase. Thus, he describes the Angevin system of self-information juries, which did not require external officers to investigate the crime and inform the jury members on the evidence. The jury members "were elected men who were possibly informed at the same time" (Langbein, 1973). The neighbourly requirement, namely the rule that jury members had to be picked from the neighbourhood where the crime was committed, was intended to produce jury members who could be both witnesses and judges (Langbein, 1973). The denunciation (at the jury of the accusation) and the proof of guilt (in the adjudication jury) acted informally, that is, outside the court and before the court hearing session. In the thirteenth century it was the duty of newly-called jury members to investigate the facts which they would speak about when appearing before court. They had to gather testimony, evaluate them, and declare the net result in a decision. The medieval jury would go to court more to talk than to hear (Langbein, 1973).

Regarding the origin of the public prosecutor in common law, Langbein argues that lawyers generally presume that the modern system of lawyer -prosecutors goes back somewhere in antiquity. In the US system, the Chief of State Attorneys, the Attorney General, is nominally responsible for prosecuting the crimes, assisted by, however they are, the district prosecutors and their mercenaries(Langbein, 1973). According to Langbein, the assumption would be that such arrangements lie back at least to the Renaissance. And indeed, in the famous and occasionally notoriouscases reported in the series of state trials, officials of the adultery trialwould regularly carry out criminal prosecutions (Langbein, 1973).

John H. Langbein has reviewed the Marian Statutes that have served to regulate the key steps of the involvement of state structures in conducting the criminal prosecution. He has emphasized the passivity of juries in this regard and the need for external persons to appear before them to inform them about the facts (Langbein, 1973). Moreover, the citizen prosecution was no longer credible. Langbein would present the potential cases where the injured citizens did not survive to be able to criminally prosecute or others where the injured citizens would refuse to criminally prosecute or be incapable of doing so. Because the public interest in the law enforcement could not allow for such shortcomings, the English had to accept an official element in the citizen criminal prosecution system. The main steps in this direction were taken under Mary, during 1554-1555 in two statutes which almost invisibly, established the judges of peace, "JP", as prosecutors for crimes in England (Langbein, 1973).

Pre-trial examinations became routine under the two statutes approved during the reign of Queen Mary in the 16thcentury. These Marian statutes for property warranties

and arrests requiredthe peace judges to examine suspects and witnesses in crime cases and to prove the results in court (USA Supreme Court, 2004).
In relation to the JP John H. Langbein says: "They were indeed Tudor's men for all the matters" (Langbein, 1973). They were mostly guiding the local nobles appointed by the royal commission for each district and certain cities. The peace judges who carried out examinations under the Marian statutes were not magistrates as we understand that task today, but had an essentially investigative and accusing function (USA Supreme Court, 2004). The JPs began in the 14thcentury as law enforcers, "guardians of peace", among the most important tasks of which was to arrest vagabonds and protesters. By the mid-century, the "guardians" were "judges", whereby sitting collectively at their quarterly session, they formed a court of law for criminal matters (Langbein, 1973). Thus, Langbein explains, the Marian scheme was transforming JPs into supporting prosecutors. Private citizens, now bound by recognition under the Marian statute, would continue to criminally prosecute many cases. But when there were no private accusers, or when the data they supplied were not sufficient, the JP was the one who would investigate, force witnesses, and appear in the assizefor orchestrating criminal prosecution. At trial he could testify for his investigation and sometimes take the role of the expert to question the accused publicly before the jury (Langbein, 1973).
In his paper on the history of the public prosecutor, Goldstein, Abraham S. addresses the fact that in the 17thand 18thcenturies, a private prosecution system prevailed in England. No public official was appointed as a public prosecutor, neither at national, nor at local level, although local justice for peace repeatedly would take on this role. Goldstein describes that the General Prosecutor of England could start of the proceedings, but would do so only in cases of particular importance to the Crown. However, occasionally, he would play an important role in controlling the excesses of private criminal prosecution, like issuing a "nolle pro sequi", order, where he would indicate his will not to prosecute, he could dismiss any proceedings and the decision on such caseswould be handled by the court as a whole within its discretion (Goldstein).
Based on the data presented by Goldstein, it is noted that in England the accusation, in most cases, would continueto be linked wot the will of private individuals. Thefigure of the General Prosecutor, was in place, but this functionary, despite having extensive rights over the criminal prosecution, would only intervenein especially important cases.
In the same example, would act the accusing process also in the English colonies. According to Goldstein, there was no General Prosecutor in each colony, and the first one was assigned to Virginia in 1643. The US general prosecutors were able to represent the Crown in both civil and criminal cases, but would largely leave the criminal proceedings up to the victims. Goldstein considers that this private criminal prosecution system fitted much less to the needs of the new society than to those of the old one. The complainants were easily hampered by the difficulty and costs of pursuing criminal prosecution, especially when the distance to travel from their settlements to the colonial capital was great, as well as basic communications (Goldstein).
Furthermore, in his work, Goldstein, Abraham S. concludes that while population

and crime increased, the only criminal court in each colony and the single General Prosecutor were replaced by the district courts and district prosecutors attached to each court. This happened in 1704 in Connecticut. These county prosecutors were rather seen as local officials than agents of the central authority of the colony. In their counties they were treated as general prosecutors and the prosecuting role of general prosecutors of the colonies became a remnant of the past (Goldstein). Such changes empowered the district prosecutors; also due to the proximity they had with territories under their competence, which, on the other hand, did not help the General Prosecutor to effectively exercise his power.

In the territories colonized by the Dutch there was a more pronounced increase of the role of state representatives in the accusation process. Goldstein describes that in settlements that make up the New Holland and counties in territories of today's Connecticut, New York, New Jersey, Pennsylvania and Delaware, the Dutch brought with them the public prosecutor. The proceedings were conducted by an official called "schout" (Collins). When the British took New York from the Dutch in 1664, criminal prosecution remained more like it had been under the Dutch administration, with the exception of the "schout" who was replaced by a sheriff (Goldstein).

For the period up to the American Revolution, Goldstein, Abraham S. explains that each colony had some forms of public prosecution which was exercised on local basis. In many instances, a dual model was introduced within the same geographic area, by county prosecutors for violations of state laws, and by city prosecutors for local charges. This model was imposed on states as they became part of the new nation. Regarding the federal criminal prosecution system Goldstein describes that it initially followed the model of the state having the authority to proceed in each district for federal crimes, assigning the US prosecutors of the district appointed by the President. With the beginning of the civil war in 1861, the Congress gave the United States Attorney General the "oversight and direction of United States prosecutors" and laid down the foundations of the United States Department of Justice (Goldstein).

Author Douglas Hay describes that in the 18th century in England, more than 80% of crimes were prosecuted by the victim or his agent. Most of the remainder were prosecuted by ordinary citizens who would exercise the law enforcement function on rotation, and were charged by the magistrate to pursue prosecution because the victim was very poor or unable. Another part was prosecuted by the Treasury Solicitor. Hay describes that only a very small number of cases, less than one percent of the total, were processed under the lead of the Attorney General or his agents. Almost all were state trials usually for betrayal or call for rebellion (Douglas, 1983).

In the 1830s- 1870s, the great social, economic and political changes, influenced the stabilization of the public prosecutor, following thus the example of the United States, Ireland, Scotland and France, which had long established this function (Douglas, 1983). Hay explains that after many legislative efforts, in 1879 the Public Prosecutor's Office was established, which had limited competencies. The private prosecutor continued to play the most important role. The charges for the most part would be brought to court by a police officer at a time when specialized lawyers for that purpose were missing (Douglas, 1983). Only in 1908 it was possible for the Public Prosecutor's Office Director to start and stop a proceeding, without resorting to a

private prosecutor.

Conclusions

The right of any individual to bring chargesagainst a person that has existed from antiquity to the 19th century, on the one hand gave each person the possibility to protect his rights in cases when he was damaged by a criminal offense. But such a right was associated with challenges related to various circumstances, such as distances between places, financial inability to cover the costs, lack of necessary knowledge to prove and defend the charges, and so on. At the same time, such a right created the possibility for abuse by bringing criminal charges for personal motives. Such circumstances contributed to the reduction of credibility for the truthfulness and efficiency of criminal prosecution by the citizen.

In addition, the need to penalize illegal actions put in front of the society and state representatives the task of building procedures and structures capable of fulfilling this goal. For these reasons, criminal prosecution underwent transformations, shifting from a private matter to a public one, where the role of state organs enhanced increasingly.

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