



Signs Of The Objective Side Of Crime In The Theory Of Criminal Law Belonging To The Romano-Germanic Legal Family: Theoretical And Practical Problems

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ABSTRACT

The objective side of the crime is one of the elements of the corpus delicti and consists of a number of interacting features that together characterize the process of external encroachment on the object of criminal law protection. In addition, proposals and recommendations for further improvement of the criminal legislation of the Republic of Uzbekistan.

KEYWORDS

The objective side of the crime, crime, sign, actus reus, mens rea, protection, corpus delicti, the time of commission of a crime, committing a crime, socially dangerous act, action, omission, criminal consequences.

INTRODUCTION

The objective side is the external manifestation of a crime, that is, the manifestation of a crime outside, which is a set of external, objective signs (circumstances) of a crime that characterize an encroachment on its object and amenable to perception, establishment and proof.

The question "signs" usually means the sum of the qualities, composition, properties, properties of a subject or phenomenon, which makes it possible to know and distinguish it from others. In the theory of cognition, the development of the study of signs, relying on

logic, makes it possible to distinguish their own characteristics from the range of categories.

M.H.Rustambaev states that "any crime is an appearance of human behavior, that is, an act or omission committed under the control of the mind and will [1]."

Indeed, any crime, by its very nature, is committed through a specific act or omission. It is this act or omission that constitutes a socially dangerous act that is unlawful, socially dangerous, punishable, and punishable by criminal law, and that harms or endangers social relations protected by criminal law.

The objective side of the crime is one of the four essential elements of the crime. An analysis of the literature and scientific work available in the theory of criminal law, the definitions of the objective side of the crime. Reflect the nature of complexity and allow us to conclude that most are specific concepts only for material crimes. We can further clarify this clarification.

The objective aspect of a crime is the external behavior of a criminal act (action or omission) that is committed in a certain way, sometimes with the use of weapons or other means, and sometimes with harmful consequences in material crimes, in a specific place, time and circumstances.

THE MAIN FINDINGS AND RESULTS

In the field of criminal law, the practice of dividing criminal behavior into objective and subjective parts is recognized, and if the act is one of the necessary features of the objective side, the mental attitude of the perpetrator to his action is studied subjectively.

In the theory of criminal law, most scholars include in the objective aspect of the crime the

circumstances that describe the socially dangerous act, the socially dangerous consequence, the causal link and the time, place and method of the crime [2].

Another group of scholars recognizes a socially dangerous act as a necessary feature of the objective aspect of the crime, and classifies the remaining signs as necessary or optional, depending on the system of the crime (crimes of material or formal content) [3].

Signs of the objective side of the crime are a set of necessary and optional signs. Necessary signs of the objective side of the crime: socially dangerous act; and material crimes include socially dangerous acts, consequences, and causation. Optional features of the objective aspect of the crime include place, time, method, status, weapon and means of the crime; socially dangerous consequence and causal link (excluding material crimes).

Any sign of an objective side is socially significant, expressing the social danger of a particular type of crime and its degree [4, p. 13-16].

Among the signs of the objective side of a particular crime are the essential typical signs of the external side of this type of crime in their generalized expression, distinguished from the countless possible manifestations of the corresponding type of crimes committed in reality.

The signs of the objective party of a crime is legally significant signs, that is signs, provided, first, in the criminal law and, secondly, when the provisions of this article of the Special part of the criminal code blanket - is in another (others) law (laws) and (or) other (other) regulatory legal acts (normative legal acts).

The objective side includes a greater number of qualifying signs that characterize it, which are specified in the norm of the criminal law more fully than signs of other elements of the corpus delicti [5, p. 117].

In the articles of the Special Part of the Criminal Code of the Uzbekistan, signs of the objective side are formulated, characterizing the crime as, on the one hand, completed and, on the other, committed by the performer (co-perpetrators).

The signs of the objective side include action or inaction infringing on a particular object of criminal law protection; socially dangerous consequences; a causal relationship between action (inaction) and the resulting consequences; method, place, time, setting, instruments and means of committing a crime [5, p.23-26].

The above signs play an unequal role. Depending on whether all the signs of the objective side, as a general concept, are inherent in a specific corpus delicti, they are divided into mandatory and optional.

At the level of generic crimes, the following are mandatory features: socially dangerous acts in the form of action or inaction, socially dangerous consequences, a causal relationship between a socially dangerous act and its consequences. Optional signs of generic crimes are method, place, time and environment, tools and means of committing a crime.

At the level of specific offenses, the necessary (obligatory) constructive elements are the signs specified in the dispositions of criminal law norms.

But in any case, an act is a mandatory sign of the objective aspect of any specific corpus delicti.

Mandatory signs of the objective side of the material composition, suggesting the onset of a certain criminal result are: a socially dangerous act, socially dangerous consequences and a causal relationship between them [6, p. 384-391].

The method, instruments, means, place, time or setting of the crime may also act as necessary signs of some specific compositions.

Generally, these optional signs become mandatory if they are directly indicated in the disposition of the corresponding norm of the Special Part of the Criminal Code of the Uzbekistan.

The way (method) of committing a crime is taken into account by the legislator when constructing the type of crimes and its danger is reflected in the sanctions corresponding to the article of the Criminal Code of the Uzbekistan.

To a way (method) of committing murder with extreme cruelty can be attributed, in particular, cases before the deprivation of life or in the process of committing the murder of the victim was subjected to torture or he caused extreme pain (the use of painful acting poison, burning alive, prolonged deprivation of food, water, etc.) [7, p. 10.].

The criminal significance of the objective aspect of the crime is as follows:

- 1) Signs of the objective side of the crime are the basis of the definition of criminal responsibility, because of which formed the dispositions of the norms of the special part of the Criminal Code;

- 2) The absence of the necessary signs of the objective side of the crime in a particular case means the absence of the composition of the crime in general;
- 3) Determining the characteristics of the objective side of any crime is the first step in qualifying the crime. For example, the discovery of a corpse wounded by a firearm;
- 4) Through the signs of the object of crime, other elements and signs of the composition of the crime are determined. For example, if the transmission of a fine with a cutting body proves that the crime was committed intentionally, the covert robbery of property indicates a violation of the social relationship guarded by the criminal law;
- 5) The presence of certain signs of the object of the crime can affect the level of social danger of the individual and can be taken into account in the differentiation of crimes with a complex composition. For example, the method of looting someone else's property (the use of secret, Open, violent, life or health-threatening violence) affects the qualification of such crimes as theft, robbery or invasion. These crimes differ one by one through a certain method established by the legislator;
- 6) The time of completion of the crime is determined by the signs of the object of the crime. This was considered its most basic criminal-legal significance. For example, the crime of theft is considered completed after the beginning of the seizure, which gives the opportunity to secretly use and dispose of someone else's property. The invasion is considered to have been completed after the beginning

of an attack aimed at looting someone else's property;

- 7) Only through the object of the crime, many criminal legal issues such as participation in the crime, initial criminal activity and voluntary return from the crime are resolved;
- 8) It is not possible to appoint a fair punishment without identifying all the signs of the object of the crime.

Consequently, the full and detailed identification of the signs of the object of the concrete composition of the crime stipulated by law is the basis for the correct qualification of the crime and the solution of other criminal legal problems.

However, this task is not so easy to perform. In a number of cases, in order to understand the signs of the object of the composition of a concrete crime, in addition to referring to the text of the law. It is necessary to know the recommendations given in the decisions of the Supreme Court plenum, to study the practice of judicial investigation, to analyze the relevant criminal legal literature and to

In the Anglo-Saxon legal family, the concept of the objective side of the crime structure does not exist at all. Instead of it, *actus reus* and *mens rea* are used.

Actus reus ('æktəs'reiəs), sometimes called the external element or the objective element of a crime. It is the Latin term for the "guilty act" which, when proved beyond a reasonable doubt in combination with the *mens rea*, "guilty mind", produces criminal liability in the common law-based criminal law jurisdictions of England and Wales, Canada, Australia, India, Kenya, Pakistan, Philippines, South Africa, New Zealand, Scotland, Nigeria, Ghana, Ireland,

Israel and the United States of America. In the United States, some crimes also require proof of an attendant circumstance [8].

The terms *actus reus* and *mens rea* developed in English law are derived from the principle stated by Edward Coke. Namely, *actus non facit reum nisi mens sit rea* [9], which means: "an act does not make a person guilty unless (their) mind is also guilty"; hence, the general test of guilt is one that requires proof of fault, culpability or blameworthiness both in thought and action.

CONCLUSIONS

Based on the analysis of the importance of the optional features of the objective aspect of the crime, the following conclusions were drawn:

1. Necessary sign of the objective side of the crime is only a socially dangerous act; the optional sign is the time, place, method, condition (situation), weapon and means of committing the crime, socially dangerous consequence and causal link. Only in crimes of a material nature, socially dangerous act, socially dangerous consequence, and causal connection are necessary features of the objective side of the crime, but they were, from the general point of view, optional features of the objective side of the crime.
2. The term "time of commission of a crime" in criminal law should be understood in two senses. On the one hand, it refers to a specific period of time during which the crime was committed, in which case it is limited to the time when the crime began and ended. On the other hand, the legislature defines the time of the crime as one of the necessary circumstances that need to be determined in order to recognize the existence of the crime, in which case the time of the crime is considered as an optional feature of the objective aspect of the crime.
3. Place of committing a crime – a special part of the Criminal Code of the Republic of Uzbekistan expresses the nature of the crime. In addition, Space (Place), which is directly indicated in the disposition of the relevant article or belongs to a specific territory (land, water or air) in which the crime was committed, the legal content of the place completely corresponds to the generally accepted definition of
4. A means of committing a crime is a set of means, the use of which is necessary for the performance of a criminal activity and facilitates the commission of a crime, sometimes used as a weapon in the commission of a crime. A weapon of a crime is an object specially designed, prepared or adapted for the commission of a crime, as well as material objects that directly damage an object protected by criminal law and are used directly in the course of a crime to achieve criminal purposes.
5. It is proposed to amend Article 13 of the General Part of the Criminal Code to Part 1 with the following content, as well as to add paragraphs 2 and 3: or inaction) at the time the crime was committed, regardless of the time at which the criminal consequence occurred.
6. The time of commission of an incomplete crime should be considered as the time of the last part of the action, which consists in creating the conditions for the commission of the crime or is directly aimed at committing the crime and is not under the control of the person.

7. The time of prolonged and continuous crime should be considered as the time of the end of the socially dangerous act (action or omission), regardless of the beginning of the criminal consequences.

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