



## THE CONCEPT OF THEFT AND ITS CRIMINAL CHARACTERISTICS

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**Abstract.** The article focuses on the concept and criminal characteristics of theft, the legal basis for combating theft, and the opinions of scholars.

**Key concepts:** Crime, theft, the concept of theft crime, opinions of legal scholars. Just as society cannot exist without people, it cannot exist without property either. At the foundation of any society, there exists an individual, property, and property rights. Therefore, it would not be wrong to say that the individual and property form the basis of society. For this reason, the protection of individuals and property has always been a priority of criminal law. In recent years, reforms in the judicial and legal sphere have been implemented in our country, based on the principles of humanism, in the area of reliably protecting individual rights and freedoms, respecting human dignity, compensating victims of crime for damages, and ensuring that innocent people are not held accountable. However, despite the positive work being done, it can be observed that new types and methods of crimes are emerging. One such type of crime is theft, and not only in Uzbekistan but also throughout the world, protecting property and property rights from criminal encroachment, ensuring its inviolability, and combating acts that infringe on property rights are becoming increasingly important. For example, according to UN reports, "from 2010 to 2019, 862.4 thefts per 100,000 people were recorded worldwide, with 354.3 in developing countries and 1,370.5 in developed countries, i.e., 3.9 times more. Regionally, these differences were up to sixteen times greater. For instance, in Western Europe and North America, it was 1,580.3, in Eastern European countries - 121.5, and in Latin America - 95.6. The fact that theft increased by 21% in 2019 compared to 2017" indicates the need to improve liability for property theft, develop new measures and a more effective mechanism for preventing these acts, and pay special attention to their prevention.

Based on these analyses, we attempted to scientifically investigate the concept, essence, and criminal-legal characteristics of theft before addressing the issue of preventing and combating it.

Theft is considered a widespread crime and one of the negative social vices with a great social danger that threatens public safety and peace. Since ancient times, theft has been considered worthy of the harshest punishment. In particular, in Islam, the crime of theft is considered one of the major sins, and the hand of the person who committed it was cut off.

In the explanatory dictionary of the Uzbek language, the lexical meaning of the concept of "theft" is interpreted as follows: Theft - property acquired by stealing, appropriated by criminal means [2].

Theft is one of the oldest types of crime. This is noted in sources relating to various periods of societal development. Theft is understood as the secret or covert taking of another's property, that is, in the absence of the victim and other persons or without their

knowledge. In the explanatory dictionary of the Uzbek language, theft is defined as "theft - secretly taking, taking away, illegally appropriating someone else's property." In the sacred religion of Islam, it is defined as "theft, which is the secret acquisition of a specific amount of property from a certain concealed place by a sane, mature person who has no right or suspicion of right to it" [3]. The object of the crime of theft is the property of others, while the objective aspect is the covert seizure of another's property.

According to V.V. Luneev, the majority of thefts (72.7%) are committed during working hours. The perpetrators are usually persons who do not have a steady income, or are unemployed individuals leading an illegal lifestyle, without a specific place of residence [4].

Theft of another's property is recognized as concealed based on two criteria:

1) objective criterion, i.e., the lack of awareness by witnesses of the true nature of the criminal act committed by the guilty party, or the absence of an objective opportunity for the guilty party to understand the nature of their intended criminal act while covertly seizing another's property;

2) subjective criterion, that is, the perpetrator has the idea that they are secretly seizing someone else's property.

From this point of view, theft of another's property is considered covert if committed in the following cases:

1) no one is observing the act being committed and no one is present at the scene;

2) the property was taken without the knowledge of the victim or other unauthorized persons;

3) the victim or other persons witnessing the taking of property did not understand the nature and significance of the act being committed;

4) the victim or other persons observing the perpetrator's actions correctly assess and understand the nature of the act being committed, but the perpetrator, without being caught, believes they are committing their actions secretly;

5) if certain persons, observing the perpetrator's actions and not concealing their presence, correctly assess and understand the nature of the act being committed, but they are not strangers to the perpetrator (close persons or relatives).

The act is considered concealed if the perpetrator acquired another's property in the presence of their relatives or acquaintances, with the consent of their relatives or acquaintances, or with their signal consent. It should be noted that theft of property belonging to a sleeping or unconscious person is also considered covert robbery. When distinguishing open theft from covert theft, it is necessary to distinguish it not by the degree of violence against the victim, but by the nature of the perpetrator's actions. Because in most cases, the perpetrator seizes someone else's property after violence has been used against the victim. For example, when two people beat the victim in revenge, the victim lost consciousness, and one of them took the victim's watch.

In accordance with the Criminal Code of the Republic of Uzbekistan, theft should be distinguished from the appropriation of findings, for which criminal liability is provided. When resolving this issue, it is necessary, firstly, to clarify the concept of "cases of ownership of property" and, secondly, to distinguish between "lost property" and "property forgotten by the owner." If a passenger leaves a heavy suitcase unattended at the station for a certain period of time and during the trip to the dining hall or other place the suitcase is occupied by unauthorized persons, the actions of the person should be qualified as theft. The forgotten

property is in a specific location for the owner, and they have the opportunity to return the property or return to that location. Lost property is property that does not have identifying features of ownership by the owner and the location of the property is unknown to the owner. The misappropriation of lost property does not entail criminal liability, but the owner of the property has the right to demand the return of the property in the civil law procedure.

According to some sources, "theft - according to Article 169 of the Criminal Code of the Republic of Uzbekistan, is the covert embezzlement of another's property"[5]. "In criminal law, theft is a crime against property, manifested in the covert embezzlement of another's property." This issue is also reflected in the views of the legal scholar E.S. Tenchov: "theft, under equal conditions, is relatively less socially dangerous than other forms of theft stipulated by law, and is enshrined in law as covert theft of another's property"[6]. Indeed, this act truly differs from other forms of robbery precisely by the method of its commission.

L.D. Gauxman connects the concept of the crime of theft with such ideas as "the covert embezzlement of another's property, that is, the misappropriation of another person's property in favor of the guilty party or a third party"[7].

Regarding this situation, lawyer A.P. Sevryukov notes the following: "On the subjective side, the person accused of theft assumes that their actions are secret, that is, hidden from others, that no one sees them. Objectively, the situation can develop in the following way: 1) the perpetrator believes that he is acting covertly, and in reality, no one sees his actions;

2) the perpetrator believes that he is acting covertly, but in reality there are witnesses who do not understand the illegality of the perpetrator's behavior;

3) the perpetrator believes that they are acting covertly, but there are witnesses who understand that the robbery was committed, but for one reason or another, they do not report the crime or are indifferent to this situation" [8]. In our opinion, theft refers to a criminal encroachment on another's property.

In conclusion, it can be said that in the future, strengthening legal awareness campaigns on the ground to prevent theft will be of great importance. Because a person suffers due to the crime of theft. If we remain vigilant and aware, such despicable acts will be cut short. Most importantly, we must not forget that one person's rights will never be entrusted to another.

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