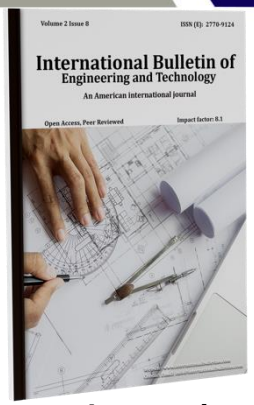

THE SOCIAL DANGER OF ROBBERY AND THE SOCIAL NECESSITY OF CRIMINAL LIABILITY FOR IT

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https://doi.org/10.5281/zenodo.16736135

Annotation: This article discusses robbery and its criminal-legal concept, the social necessity of responsibility for it, its social danger, as well as the differences between robbery and other crimes related to the theft of another's property.

Keywords: Robbery, property, theft, use of force, threat of use of force, methods of committing, social danger.

Article 65 of the Constitution of the Republic of Uzbekistan, adopted in a new edition on April 30, 2023, states: "The basis of the economy of Uzbekistan, aimed at improving the well-being of citizens, is property in its various forms. In the Republic of Uzbekistan, the equality and legal protection of all forms of ownership are ensured. Private property is inviolable. It has been established that an owner cannot be deprived of their property except in cases and procedures stipulated by law and without a court decision.[1].

In the context of market relations, the legal protection of property stems from the fact that in the system of social values, along with the continuous interests of the individual, that is, their life, health, honor, dignity, and freedoms, property rights also occupy a priority place. It is necessary to create and improve, based on modern requirements, legal mechanisms that contribute to the protection and prevention of criminal encroachments on the property of others[2].

Article 164 of the Civil Code of the Republic of Uzbekistan states: "The right of ownership consists in the right of a person, at his own discretion and in his own interests, to possess, use and dispose of property belonging to him, as well as to demand the elimination of any violation of his right of ownership by anyone.[3].

In order to protect another's property and the right to property from criminal encroachments, to ensure its protection, Section III of the Special Part of the Criminal Code of the Republic of Uzbekistan is called "Crimes in the Sphere of Economics," Chapter X of which provides for criminal liability for crimes related to the embezzlement of another's property.

Among these acts, "robbery" is a socially dangerous act defined in Article 164 of the Criminal Code, which differs from other types of crimes related to the theft of other property by its nature and high degree of social danger.

The legislator states that the use of violence dangerous to life or health, or the robbery of a person's property by the use of such violence, must be analyzed as a socially dangerous act in order for us to understand it as an act of robbery. Because most scholars who have expressed their opinions on the issue of criminalizing an act (evaluating it as a crime) indicate its social danger as an integral characteristic of each crime.[4].

The social danger of the act is an objective criterion. The legislator's task is to assess the act as socially dangerous and to combat it. If the act contains all the elements of a crime, but is not socially dangerous, it is not recognized as a crime[5].

Therefore, one of the main factors in the criminalization of robbery is the degree of its social danger. In the theory of criminal law, the "degree of social danger" is defined as a necessary characteristic of the act, but even in some cases, this characteristic does not serve as a sufficient basis for criminalizing the act. Therefore, not every socially dangerous act is considered a crime; for an act to be considered a crime, it must have the elements and elements of a crime established by criminal law.[6].

The degree of social danger remains one of the pressing problems in the theory of criminal law that has been the subject of discussion for several years, the reason for which is that there is still no single opinion, no single approach among scientists regarding the degree of social danger of the act.

In legal literature, the analysis of the social danger of a crime by its qualitative and quantitative aspects determines [7].

The degree of social danger of a crime is a political expression of the danger of the act, determined by the degree of danger of the crime associated with the amount of damage (material damage, infliction of large damage, infliction of grievous and moderate bodily harm to a person), the nature of the guilt (premeditated, sudden), a change in the motive and purpose of the crime, as well as the place, time, and circumstances of the crime[8].

K.Lyutov[9], V.N.Kudryavtsev[10], P.S.Dagel[11], who conducted research in the second half of the 20th century, according to P.P.Osipov, put forward the idea that the social danger of a crime stems from the external side of the committed act, that is, from its objective content.

A.S. Yakubov, agreeing with the opinions put forward by the above-mentioned researchers, asserts that "the objective nature of social danger is determined by the objective nature of the external side of the harm caused by the commission of the act"[12].

According to K.R. Abdurasulova, the degree of social danger of the act is determined by two things: "the social danger of the crime manifests itself in the consequences arising from the committed act and the social danger of the guilty person."[13]

According to A.D. Nechayev, he argues that "when considering the social danger of a person and the social danger of an act, it is necessary to study them separately, since the degree of social danger of the criminal's personality is formed before the commission of the act, in some cases directly at the time of the commission of the crime"[14][15].

Unfortunately, in the opinion of Yu.M.Karaketov and M.Abdusalomov, the exclusion of the perpetrators from the system of social danger is somewhat controversial and cannot be excluded[16].

According to M. Usmonaliyev and P. Bakunov, the degree of social danger of a crime is its quantitative indicator, taking into account such factors as the degree of damage caused, the severity of the consequences, the degree to which the criminal act was committed (preparation, attempt or completion), whether it was committed jointly by several persons, the method of committing the crime, the use of weapons in committing the crime, and the nature of the guilt.[17].

In the opinion of Professor Yu.I. Lyapunov, social danger is a broader and more complex category, and the concept of social danger is defined as follows. "Social danger in criminal law is a specific objective state of a crime that reflects the real threat of causing harm to legally protected social relations and represents a set of negative signs and elements."

In our view, the fact that a person is socially dangerous (except for cases of conviction, dangerous recidivist, or especially dangerous recidivist) or that they have a desire to commit a crime does not mean that they themselves will not commit a socially dangerous act and will not cause a socially dangerous consequence.

Therefore, the commission of a socially dangerous act by a person, that is, objective social danger, serves as a basis for criminal prosecution under current criminal legislation.

A number of scientists emphasize that the signs of social danger influence the level of social danger and its nature, but it is necessary to distinguish them from those that do not constitute the structure of social danger. They provide for the inclusion of the characteristic of the subjective side of the act, motive, and purpose in the circumstances influencing the social danger of the act[19].

According to the opinions put forward by the above-mentioned scholars, some authors consider social danger to be the main element of its structure, which consists only of objective features, while scientists of the second category state that the structure of social danger consists of subjective features, while scientists of the third category emphasize that it constitutes a certain part of the objective and subjective features of the act or the sum of all necessary parts.

In our opinion, the totality of both objective and subjective signs of the social danger of any act should be determined.

Consequently, like other specific crimes, the social danger of theft of another's property through robbery manifests itself in the encroachment on legally protected social relations. In contrast to other property crimes, robbery manifests as an encroachment on the property of others, violating their property rights and posing a threat to their health and life. The Law of the Republic of Uzbekistan "On Property" states: "The owner has the right only to transfer the right to own, use, and dispose of their property to other persons. The owner may be deprived of property only in cases and in the manner prescribed by law"[20].

This provision serves as the legal basis guaranteeing a person's actual ownership of their property.

In legal sources, a number of opinions have been expressed regarding the social danger of robbery, and in this regard, according to the author M.Kh. Rustambaev, "The high social danger of robbery is primarily associated with the fact that, as a result of the seizure of another's property, harm is also caused to the life or health of the victims, or there is a real threat of such harm.[21].

According to P. Bakunov, the social danger of robbery is expressed, first of all, in the risk of a person's life or health during its commission[22].

The social danger of the crime of robbery lies in the fact that in its commission, it is manifested not only in encroachment on social relations with respect to another's property, but also in causing harm to the life and health of a person and creating a real threat of such harm. From this point of view, the degree of its social danger is determined by the nature of the encroachment on two objects protected by criminal law.[23].

According to R.Kabulov, robbery is an act committed for the purpose of theft of another's property, which is understood as the infliction of moderate bodily harm, from which it follows that in the commission of robbery, the attack is directed not only at property relations, but also at the health of the victim, which serves to increase the social danger of robbery.[24].

The social danger of aggression is determined, first of all, by the method of its commission. In this crime, property damage is caused to the victim through the use of violence.

S.A. Yeliseev notes that "robbery is an active socially dangerous act that poses a real threat to the life and health of the victim"[25].

The legislator provides for stricter penalties for robbery, since robbery, as a socially dangerous act, is distinguished by its cruelty (violence). Violence - the use of physical or psychological force - is a characteristic sign of aggression.

In our opinion, robbery is a crime that encroaches on two objects: property relations and the life or health of a person, and it is impossible to imagine it without causing harm by the guilty party to an additional object in addition to the main one. The exclusion of an additional object from the disposition of the robbery norm means the elimination of the component of the crime of robbery itself.

Consequently, robbery cannot be committed without the necessity of violence or the threat of its use by the perpetrator. Because in the commission of robbery, violence or threats dangerous to human life or health are necessarily used.

In conclusion, the social danger of robbery is a broader and more complex category, considering that the degree of aggression committed by the perpetrator against the victim, the instruments of the crime used in the robbery, or the object or other objects used as a weapon, the amount of damage, participation in the act, methods of committing the crime, the social danger of the perpetrator, the objects of the robbery, the place, time of the crime, the form of guilt, the social danger of the perpetrator, in general, the social danger of robbery manifests itself in its objective and subjective features, and such categories, of course, pose a serious threat to human life or health, the legislator establishes criminal liability for robbery

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