

Object of Crimes against Personal Liberty

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Annotation:

In the article, the author examines the features of criminal liability for illegal deprivation of liberty from a scientific and theoretical point of view. In particular, the special characteristics of the objects of this category of crimes were studied, the results of scientific researches conducted in this direction, the views and approaches of scientists and researchers were studied. Relevant scientific and theoretical conclusions are given based on the research results.

Keywords: imprisonment, use of violence, freedom, captivity, mental violence, detention, arrest.

Personal freedom, freedom belongs to a person are inherent rights. It appears in everyone from the moment of birth along with other natural rights. Everyone can be deprived of freedom, imprisoned or detained only on the basis established by law and in accordance with the relevant procedures [1, 56]. This concept was reflected in the Constitution of the Republic of Uzbekistan adopted in 1992. Among the basic human rights and freedoms, the right to freedom and privacy is recognized in our Basic Law. No one can be arrested or detained without legal grounds (Article 25 of the Constitution of the Republic of Uzbekistan). Every person accused of committing a crime shall not be considered guilty until the case of a person accused of committing a crime has been heard in a court of law in a public manner and his/her guilt has been determined. All conditions for self-defense are provided to a person accused in court (Article 26 of the Constitution). Constitutional provisions on personal inviolability and personal freedom are provided by the norms of criminal law.

Chapter VI of the Special Part of the Criminal Code of the Republic of Uzbekistan defines responsibility for crimes against the freedom, honor and dignity of a person. The Special Part of the current Criminal Code "Crimes against the freedom, honor and dignity of a person" provides responsibility for four of the crimes against the freedom of a person. These are: human trafficking (Article 135), forcing a woman to touch the ground or preventing her from touching the ground (Article 136), kidnapping (Article 137) and unlawful deprivation of liberty by force (Article 138).

All of the above-mentioned elements of the crime have the same object of the crime: it is social relations that ensure the freedom of the individual. To what extent this combination is justified from a theoretical and practical point of view can be determined by analyzing the concept of the object of the crime.

If we look at the history of the theory of criminal law, we can see that there is no single concept for solving the issue of the object of the crime. In this regard, several conceptually conflicting doctrines have emerged. A group of authors led by V. D. Spasovich were supporters of the theory of "subjective right". They specified the concepts of the subject and the object of the crime and described the only concept they developed as "the right of someone to be protected by the state through punishment." Scientists based their conclusions on the fact that the right acquires a subjective character, belongs to a person or a group of persons, and a crime is always committed against a person, therefore, the subject of any crime can only be a person [2, 94; 3, 154; 4, 49]. A.F. Kistiakovsky also agreed with this concept and believed that property and animals can be recognized as objects of crime, because they are owned by a person in the right of property. Among other things, he wrote: "in general, only man can be recognized as the object of crime, along with all the rights and institutions that create him as a social being. Because of this, in addition to the objects created by nature - life, health, freedom, honor and dignity, which are considered the main objects of the crime to one degree or another, objects, animals, institutions are also considered objects of the crime from a certain point of view [5, 310].

Opponents of the theory of subjective law put forward the opinion that the object of the crime can be the thing that is directly violated or suffers from criminal aggression, that is, the public interest or private interest protected by the criminal law [6, 234; 7, 13-14].

There was also a third definition of the concept of the object of the crime. Its supporters tried to justify the idea that the object of the crime has two sides [8, 243; 9, 400; 10, 31-32]. According to the logic of their reasoning, the object of the crime is a complex concept that includes both legal norms and specific wealth (interest). As N.D. Sergievskii noted: "... any criminal act by its essence is an act that violates the norms of positive law, which must embody the aspect of causing material or ideal damage to certain individuals or the whole society [8, 400]."

The coup of October 1917, along with the destruction of the political and social system of Tsarist Russia, also made fundamental changes in the criminal law policy of the country. In the first normative legal documents of the Shura criminal law, it is noted that their main task is to protect social relations that are compatible with the interests of the working public. For example, in the guidelines on criminal law of the RSFSR adopted in 1919, in the definition of criminal law and the concept of crime, social relations are directly indicated as an object protected by criminal law (clauses 2, 3, 5). Legislation adopted later (1922, Basic Principles of Criminal Law of the USSR and Allied Republics, 1924, Fundamentals of Criminal Law of the USSR and Allied Republics, 1926, Fundamentals of Criminal Law of the USSR and Allied Republics, 1958, 1959, USSR) referred to as a crime scene.

B.S. Nikiforov, referring to crimes against a person, writes: "In such cases, unlike the authors of the textbooks who emphasize that the object of the crime is not social relations themselves, but their subjects, we consider the subjects of social relations to be a component of these relations, and because of this, We believe that they and these must be included in the content of the concept of the object of the crime [11, 132]." N. E. Martinenko, relying on the usual point of view about the object of the crime, considers a person as an object of aggression [12, 10]. In our opinion, we cannot agree with this opinion. After all, the materialization of human life, health and other intangible assets is unacceptable.

In the theory of criminal law, some scholars criticize the approach based on distinguishing the categories of "wealth" and "interest". For example, according to A.N. Krasikov, as long as the criminal law is a material law, it does not protect interests from crimes, but the sum of wealth existing in the society and defined by the criminal law. At the same time, the author emphasizes that the interest strengthened by law turns into legal wealth [13, 66]. In our opinion, M.R. Snakhova put forward a very correct opinion on this issue. Commenting on the possibility of recognizing "wealths" or "interests" as objects of crime, he said: "Disagreements on this issue are not serious, but only superficial disagreements. In fact, different authors approach the same social phenomenon from different points of view [14, 21].

The analysis of the main concepts of the object of the crime existing at different stages of historical development allows us to come to the following conclusion: the law protects the interests of one person from the aggression of another person, respectively, these interests arise from certain interactions between them regulated by the legal norm. From this point of view, it is possible to agree with the following definition given to the object of crime by M.Kh. Rustambaev: "The object of crime is a social relationship protected by the Criminal Code, which is the target of criminal aggression and can be harmed through this aggression" [15, 139]. As we are considering, social relations that ensure personal freedom (freedom) of a person apply as such a relation.

It is known that the object of crime is classified according to horizontal and vertical direction. According to the vertical direction, the object of crime is divided into 4 types, i.e. general, special, similar and direct objects. According to the horizontal direction, it is divided into directly main, directly additional and directly facultative objects.

The general object of the crime arises from the general relationship protected by the criminal law. The scope of such relations is defined in Article 2 of the Civil Code.

It should be noted that some scholars [16, 18] believe that sections and chapters of the criminal law should be created according to special and related objects of the crime. At this point, A.S. Yakubov's "A special object should be the basis for creating a system of the Special Part of the Criminal Code" [17, 47], his opinion is of great importance. Some say that the sections of the Criminal Code should be created [18, 112] based on the special object, the chapter according to the related object, and the article according to the direct object. According to N.I. Vetrov, the norms of the special part of the Criminal Code are systematized based on the special object of the crime. Each section or even chapter has its own special object [19, 114], he says. In our opinion, by the legislator, crimes with a similar special object are separated into sections of the Special Part of the Criminal Code, and crimes with a similar object are separated into chapters. From this point of view, it can be concluded that **the special object of crimes against the freedom of the person is the social relations that ensure the rights and freedoms of the person, and the related object is the social relations that ensure the freedom and freedom of the person.**

Taking into account that the direct objects of crimes against personal freedom are directly expressed in separate articles, it is appropriate to analyze the direct objects of crimes against personal freedom in a separate order within the framework of the crimes included in this chapter.

One of the most common crimes against personal freedom is human trafficking. Human trafficking is a direct attack on the freedom and dignity of a person. Prof. According to M. H. Rustamboev, the direct object of human trafficking is social relations that guarantee personal freedom, honor and dignity of a person [20, 183]. Sh. Hamraeva states that "the object of human trafficking is a set of social relations, which are based on such values as human life, freedom, honor and dignity, health and social integrity [21, 63]." According to F. Takhirov, the object of the crime is the freedom, honor and dignity [22, 132] of the victims. A similar opinion [23, 5] was put forward by R. Kabulov

and Z. Gulyamov. M.A. Rajabova assesses that "the object of honor crime related to the freedom of the person" [24, 93].

V.S. Komissarova describes that "the object of the crime of human trafficking is a person's physical freedom and rights to engage in other socially useful activities [25, 103]." In addition to the above points, after studying the opinions regarding the qualification of this type of criminal act, it can be said that not only the freedom, honor and dignity of the person is violated in human trafficking and recruitment of people for exploitation.

In the literature published in recent years, we can see that the scope of the object of human trafficking has been expanded. In particular, in the research conducted in this regard, "the object of the crime of human trafficking and attraction of people for exploitation is different from similar crimes, the object of this crime is freedom, honor, dignity and the right to work freely" [26, 25], it is noted.

In fact, the right to free work can be considered as a component of the concepts of freedom and liberty in general. However, while we are commenting not about the general object, but about the direct object, that is, about the relationship that is directly attacked or endangered by the act, we must accept the social relations that provide the right to free work as being within the direct main object of human trafficking. After all, the Recommendations of the International Labor Organization "On the Elimination of All Forms of Forced and Compulsory Labor" prohibit any type of work that causes suffering and puts a person in a difficult situation [27, 130]. In addition, Article 37 of the Constitution of the Republic of Uzbekistan protects the right of citizens to work, and according to it, it is said that "every person has the right to work, freely choose a profession, work in fair working conditions and be protected from unemployment in the manner specified by law." The analysis of this type of criminal cases shows that in most cases, the victims are forced to work in conditions and types of work that they do not want and are deprived of the rights provided by the labor law.

From the above analysis, it can be concluded that **the immediate main object of human trafficking is social relations that ensure freedom, honor, dignity and the right to work freely.**

In agreement with A.S. Yakubov's opinion [28, 97] that the difference between the direct object in multiobjective crimes is that it is divided into main, additional and optional objects, it can be said that human trafficking and attracting people for exploitation threaten the security of society with its multiobjective nature.

In some cases, people are recruited for sexual exploitation or forced labor, and they are directly subjected to various physical tortures during exploitation, resulting in damage to their health. According to M. Kadyrov, "the object of hiring people to use them is not only the freedom of the person, but also dignity and health" [29, 102] M.A. Rajabova [30, 95] says that if deceived girls refuse to engage in menial affairs, they will be locked up, beaten and tortured for several days without food. In agreement with these opinions, it can be said that during exploitation for sexual or other purposes, the victim's health may be harmed due to hitting, punching, torturing, touching the honor, and for this reason, **social relations that ensure the integrity of a person's life or health are evaluated as a direct additional object of human trafficking.**

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