

The Definition and Social Danger of the Crime of Robbery through Employment or Distribution

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Abstract: This article analyzes the concept of the crime of embezzlement, its social danger, and the history of its development. The article also discusses the scientific debate with the views of national and foreign scientists. The legislation of foreign countries on the crime of embezzlement or expropriation was studied, and proposals and recommendations for national legislation were developed.

Key words: embezzlement, rastrata, robbery, suspect, accused, enterprise, institution, organization, investigator, investigator, prosecutor.

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In the first years of our independence, protection against criminal encroachments on other people's property and combating them with criminal-legal measures was put forward as one of the most urgent issues in the market economy. The President of the Republic of Uzbekistan, Shavkat Mirziyoyev, said: "Globalization of the world economy and the turbulent situation in some regions are causing increased population migration". "This leads to an increase in crimes, human trafficking, terrorism, extremism, drug trafficking, and extremely dangerous infectious diseases," he said.

The legal basis for protecting the economic security of our country is formed in the Constitution of the Republic of Uzbekistan, laws and other regulatory legal documents. For example, in Article 65 of the Constitution of the Republic of Uzbekistan, Property in various forms forms the basis of the economy of Uzbekistan aimed at increasing the welfare of citizens. The state creates conditions for the development of market relations and fair competition, guarantees freedom of economic activity, entrepreneurship and labor, taking into account the priority of consumer rights.

Based on this constitutional principle, in order to prevent and combat criminal encroachments on other people's property, the third section of the Special Part of the Criminal Code of the Republic of Uzbekistan, Chapter X (Robbery of Other People's Property) aims to ensure economic security. Regulated as a set of criminal-legal norms.

In the conditions of market relations, the legal protection of property arises from the fact that, along with the continuous interests of a person in the system of social values, i.e. life, health, honor, dignity and freedom, property rights also take priority. Because it is difficult to imagine any sphere or branch of social life without the property rights of an individual. Therefore, encroachment on property rights in the system of social benefits can be assessed as a direct attack on a person in a broad sense. Therefore, ensuring the effective protection of the owner's property from criminal attacks is relevant for criminal law and judicial investigation practice.

Article 167 of the Criminal Code, which provides for criminal liability for embezzlement of other people's property or looting, is one of the ways to create the necessary conditions for criminal-legal protection of property relations established in society from criminal aggression. At the beginning of the 20th century, the famous criminologist Ch. Beccaria proved that the social danger of a criminalized act should be determined by a criminal-legal prohibition.

Most of the scientists who expressed an opinion on the issue of criminalization of the act in the criminal-legal sense point to its social danger as an indispensable social sign of any crime. For this reason, it is one of the main factors of criminalization of the phenomenon of embezzlement or looting, and its social danger is considered. However, it should also be noted that in the theory of criminal law, while social danger is considered a necessary sign of an act, it is not the only and sufficient sign for the criminalization of an act.

The category of "social danger" has been one of the most urgent and urgent problems in the theory of criminal law for several decades, because there is still no consensus among legal scholars on the definition of the category of social danger.

In the legal literature, scientists define the structure of social risk in different ways. Most scientists say that social danger is the sum of all the signs characterizing aggression.

O.G. Zokirova and M. Usmonaliyev, the social danger of the act is action or inaction, criminal consequences, social relations protected by law, along with a number of changing conditions, i.e. the place and time of the crime, the amount of damage caused, the degree of guilt and they emphasize that it is also related to the form, prevalence of this type of crime, the level of legal consciousness of the population, etc.

P.S. Dagel, who conducted research in the 60-70s of the 20th century, V.N. Kudryavsev, K. Lyutov, P.P. According to scientists like Osipov, the social danger of a crime comes from the objective content of your act. A. S. Yakubov, who supported such an opinion, stated that "the objective nature of social danger is determined by the objective nature of the damage caused as a result of committing a crime."

In turn, legal scholar K.R. Abdurasulova stated that "the social danger of the crime consists of the social danger of the act (action or inaction), the social danger of the consequences of this act, and the social danger of the guilty person."

Some scientists oppose the introduction of the social danger of the individual into the system of social danger of the act. In particular, in the opinion of M. I. Kovalev, "when considering the social danger of a person and the social danger of an act, we should study them separately, because the social danger of a criminal person is formed before the act is committed, and in a number of cases directly during the commission of the crime." . However, M. Abdusalomov and According to Y. Karaketov, it is impossible to exclude and separate the identity of the criminal from the system of social danger of the act. Agreeing with this opinion, the fact that a person is recognized by the court as a dangerous recidivist or an extremely dangerous recidivist means that his social danger is of independent importance. However, it should also be noted that the social danger of a person (except for the cases of dangerous recidivist or extremely dangerous recidivist) or the formation of a desire to commit a criminal act in him does not cause any criminal-legal consequences. Therefore, the commission of a socially dangerous act, i.e. objective social danger, is the basis of criminal liability under the current criminal legislation.

Another group of scientists includes a certain part of the objective or subjective characteristics of the crime structure in social danger. For example,

Y.Trunsevskii emphasizes that a blessing protected by law - social relations, aggression and consequences constitute social danger. T. V. Sereteli includes the purpose of the action, the social

significance of the object, the degree of origin of harmful consequences among the signs of social danger.

Some scientists emphasize that it is necessary to distinguish the structural signs of social danger from those that affect the level and nature of social danger, but do not constitute its structure. They include the motive and purpose in the circumstances affecting the social danger of the act.

The analysis of the above opinions shows that some authors consider only objective signs as the main element in the structure of social danger, the second group of scientists consider subjective signs, and the third category considers a certain part of the objective and subjective signs of the act or a combination of all necessary parts. They emphasize that it will be organized by indisi. In our opinion, the objective and subjective signs of the social danger of any act should be determined according to its own law.

The structural elements that directly determine the danger of the crime for the society in advance are the situation that creates the amount and consequences of the damage, the act and the method (speed of the act), the social attitude and object protected from the act. Among the signs that indirectly affect the social danger manifested through objective signs, it is possible to include guilt, purpose, motive, and some features of the subject that can be directly implied in the structure of the crime. It is appropriate to conditionally define the above-mentioned signs in the context of embezzlement or looting by means of rastrata.

So, like any other type of crime, the social danger of the crime of embezzlement or looting is manifested in the encroachment on social relations protected by law. The property of others is invaded as a result of embezzlement or looting. Protection of property from criminal attacks is one of the main tasks of the Criminal Code (Article 2 of the Criminal Code). The owner owns, uses and disposes of his property at will. The owner can be deprived of his property only in the cases and according to the law. These constitutional provisions determine the socio-economic importance of the property of others.

Therefore, encroachment on other people's property in various forms, in particular, through appropriation or distribution, is considered socially dangerous, because it leads to the violation of the system of property relations established in society. As a result, the owner or other owner of the property will suffer material damage. Damage is a state of criminal consequence, which is one of the objective signs of the composition of the crime. As stated by Z. Kh. Gulyamov, "a criminal consequence is a socially dangerous harm, the corresponding social relations are protected from its infliction by criminal-legal means, that is why the harm caused by the guilty behavior reflects the nature of the social act and the object of aggression."

The social danger of the crime of robbery by embezzlement or distribution is an attack on property relations, more precisely, on social relations in the field of distribution of material goods intended for collective or individual consumption or production activities. And the resulting criminal consequences.

When classifying the consequences of the crime of embezzlement or embezzlement, it can be divided into two groups according to the nature of the damage caused: material (property damage), social (damage as a result of derailing the economic life of the community and the state) . This classification of the criminal consequence allows for a clearer understanding of the social danger of various types of aggression against property relations.

In addition, the high level of social danger of the crimes of embezzlement or robbery is manifested in the fact that they are committed by persons entrusted with the property of the owner or other owner of the property or at their disposal. These persons, instead of paying special attention to the preservation of the entrusted property of others, use such circumstances and their position to loot

the property of others entrusted to them for their own benefit or for the benefit of others.

The social danger of embezzlement or distribution, like any crime, is inextricably linked with the prevalence of this crime. The increase in the number of embezzlement or embezzlement crimes causes enormous material damage to social relations protected by law. Looting by means of embezzlement or rastrata is carried out at the expense of the owner's property through an action or a system of actions aimed at satisfying his needs in the form of material goods. The criminal subject who commits these actions does not use any violence against the owner to take possession of the property, but acts in other ways. For example, there are ways to commit the transfer of assets by using false registered documents or by falsifying the entries and exits in the registers and creating excess output. Criminal acts of embezzlement or distribution through these and several other methods are not only crimes in the economic sphere, but also one of the most common crimes in the system of registered crimes. This situation can be explained by the following statistical data.

In Uzbekistan in 2020-2024, the weight of the crime of misappropriation or embezzlement among the general crimes of robbery by year is 1,528 in 2020, 3,883 in 2021, 5,891 in 2022, And in 2023 We can see that 5,887 crimes were committed in 6 months of 2024. So, from 2020 to 2024, this type of crime increased by 34.6%.

Based on the above, it should be noted that these indicators, on the one hand, warn of a threat to the interests of citizens, society and the state, and on the other hand, the need to strengthen the preventive effect of the criminal law against persons who may commit this type of crime. indicates.

In our opinion, according to the above-mentioned factors, the legislator established criminal liability for embezzlement or robbery by way of fraud in Article 167 of the Criminal Code. Therefore, the social conditioning of the criminal-legal norm provided for in this article in the course of the market economy is an important factor for its implementation today.

With this, we want to create an opportunity for him to correctly determine his place in society, without aiming at criminal-legal repression against persons who may commit a crime. Professor V.V. According to Yesipov, "The present real legal state is not a pharmacy where actions and the punishments assigned to them are weighed on the scales of a pharmacy, or a customs house where a fixed fine is paid for deviation from the permissible limits, but it is, first of all, a morally unhealthy and impure society. It should be a source of love and care that is reflected without being destroyed."

Consequently, the criminal liability provided for in the Criminal Code of the Republic of Uzbekistan for embezzlement or robbery by rastrata must be determined based on the social danger of this act.

Taking into account that these socially dangerous actions pose a serious threat to society, the legislator of the Criminal Code of the Republic of Uzbekistan

Article 167 provides for criminal liability for embezzlement or robbery. The disposition of the first part of this article is defined as "robbing by misappropriation or distribution of the property of another entrusted to the offender or at his disposal." In our opinion, it is necessary to further improve this criminal law norm today. Because the lack of a legal definition of the concepts of embezzlement and distribution in the provisions of Article 167 of the Criminal Code of the Republic of Uzbekistan creates a number of difficulties for legal scholars and practitioners in the application of this norm. In order to clarify the causes of these cases, investigators, prosecutors and judges working in enforcement bodies were asked, "Why are mistakes made in many cases when distinguishing and qualifying crimes of misappropriation or misappropriation of other people's property from other crimes?"- when asked the question, 85.9% of them answered that the legal definition of forms of appropriation or distribution of other people's property has not been developed, as well as "Today, the legal definition of appropriation or distribution of other people's

property Is it necessary to develop? - and 85% of the respondents answered “Yes”.

At the same time, the definitions given by legal scholars to the concepts of appropriation and distribution in legal literature contradict each other.

Therefore, today, the development of the legal definition of the concepts of appropriation and distribution has become an important task and urgent issue for humanistic scientists and practitioners.

In our opinion, it is possible to reveal the meaning of the concepts of “appropriation and distribution” based on the general concept of looting. First of all, first of all, it is necessary to clarify the definition of robbery, because this concept is reflected in the criminal law and is expressed differently in the legal literature. Therefore, it is necessary to develop a definition of the general concept of robbery.

In the first years of our independence, Professor E. H. Hakimov, Professor R. Kabulov, Professor M. H. Rustamboyev, and in the following years, S. Niyozova and F. N. Radjabov emphasized the development of the legal definition of the concept of robbery.

When we analyzed the definitions given by the above authors to the concept of robbery, we were sure that the definition of the concept of robbery consists of strong and unified systematized necessary signs. Because in the definitions given by these authors, almost in expressing the methods of robbery, different terms are used, that is, “to take away”, “to possess”, “to take over”, “to take away and possess” and it is only disputed that it consists of others. That’s why, without having a scientific debate with them, we will express the definition of robbery only by showing a number of signs that are necessary in the concept of robbery.

As the object of robbery, the authors emphasize that it is a set of property relations, the subject of aggression, which is at the disposal of the owner or other legal owner of the property, that is, it is the property of others. From an objective point of view, robbery is characterized by active actions that violate the right and do not compensate, and at the same time, as a result of the action, it is manifested in causing real material damage to the owner or another owner of the property. When describing the subjective signs, it is necessary to take into account the intentional form of the crime and the malicious intent, the subject is a sane and natural person who has reached the age of criminal responsibility provided for in Articles 164-169 of the current Criminal Code.

Therefore, taking into account the definitions given by the above authors to the concept of robbery and the signs of constant and necessary importance in the concept of robbery, we propose to define the concept of robbery as follows:

Plundering is the deliberate, malicious taking of someone else’s property from the ownership of the owner or another person who owns the property, without compensation, by causing actual material damage.

Thus, the definition of the concept of robbery proposed by us would be the most important step in the development and improvement of the law on responsibility for robbery, if in the future the legislator will include it in the eighth section of the Special Part of the current Criminal Code. , and secondly, it helps to understand the content of the legal norms on responsibility for robbery and to apply them clearly in practice.

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