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INDEXING

THE OBJECTIVE SIDE OF CRIME AND THE ACTUS REUS CONCEPT: COMPARATIVE-LEGAL ANALYSIS, PROBLEMS AND PROPOSALS

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F.Kh.Khudaykulov

Phd In Law, Associate Professor, Department Of Criminal Law, Criminology And Anticorruption, Tashkent State University Law, Uzbekistan

Abstract

In this article, the logical, systematic, logical-legal, comparative-legal methods of research are widely used. In particular, the formation of the doctrine of the crime compound and its stages of historical development are described in detail. Including, first of all, the most Continental (Romano-Germanic) and Anglo-Saxon (Common) from large law families the objective side of the crime structure in the doctrine of criminal law existing in the family of law and The concept of "actus reus" is scientific about them by the scholars of each family of law views, studies, similarities and differences between them described in detail. Also, the objective aspect of the crime and "actus reus" concept has been analyzed in comparative law and the problematic aspects in them are sequential described. In this article, the main focus is on the objective aspect of the composition of the crime advantages of signs and "actus reus-mens" in criminal law in the Anglo-Saxon legal family rea" on the "corpus delicti" (composition of the crime) consisting of a criminal act aspects related to the shortcomings of the theory are both theoretically and practically justified. At the same time, criminal law exists in the Anglo-Saxon (common) law family scientists in the doctrine J.Austin, M.Moore, D. Husak, J.Fletcher, H.Morris, M.Gore, A.Enker, W.Blackstone, G.Williams and Russian belonging to the continental (Romano-Germanic) family of law scientists A.S.Yakubov, M.Kh.Rustamboev, Kudryavtsev, D.M.Molchanov and others, as well as national scientists A.S.Yakubov, M.Kh.Rustamboev,





S.S.Nayimov, M.Usmonaliev and Scientific works of P.Bakunovlar and others were used. At the same time, continental (Romano-Germanic) and Anglo-Saxon (common) law countries are crimes analyzed the criminal legislation of the Republic of Uzbekistan in this regard specific proposals and recommendations for improvement have been developed.

Keywords

Crime, objective side of crime, corpus delicti, actus reus, mens rea, social dangerous act, socially dangerous consequence, causal connection, criminal behavior, desire, understanding.

INTRODUCTION

A culpable socially dangerous act (action or inaction) prohibited by this Code on pain of imposing of a penalty shall be recognized as a crime. The definition given to the concept of crime in the existing criminal law doctrine and legislation in the continental (Romano-Germanic) and Anglo-Saxon legal families is different.

In particular, in the doctrine of criminal law existing in the continental (Romano-Germanic) family of law, an act with four necessary signs, i.e., social danger, illegality, guilty and punishability, is considered a criminal act. An act that causes damage to objects protected by the criminal law or creates a real risk of damage is considered a socially dangerous act. In the criminal law, the legislator expresses the socially dangerous act along with its signs and determines the punishment. As a result, the criminal act is prohibited by the threat of punishment in the criminal law. The crime and its signs are represented by the element called the objective side of the crime structure. The objective side of the crime structure and its signs first of all represent the sign of social danger of the crime, and the legislator reflects this socially dangerous act in the criminal law and assumes its illegality, guilty and punishment.

In the doctrine of criminal law in the Anglo-Saxon legal family, there is no single definition of the concept of crime. According to the theory of criminal law existing in this family, a criminal act is considered a crime based on the concept of "actus reus-mens rea". Corpus delicti, which has its roots in Roman law, consists of basic elements such as actus reus and mens rea. "Mens rea" means "a guilty mind" in Latin, and is a subjective element of "corpus delicti" and refers to the mental attitude towards the committed criminal act. "Actus reus" means "guilty act" in Latin and is an objective element of "corpus delicti" and is the external aspect of the crime, such as the committed criminal act, its criminal consequence, the causal connection between the criminal act and the consequence. represents the side.

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In the continental (Romano-Germanic) family of law, the theoretical understanding of material and formal types of crime has not yet appeared, but the concept of "criminal structure" has a long history. The first ideas about this legal category appeared at the end of the 19th century and the beginning of the 20th century. However, the views on the structure of crime at that time were very different from today's views. For example, it considered the composition of the crime as the presence of the fact of the commission of a crime (dead body, traces of breaking into the building, etc.) [1, P. 41].

It is appropriate to conduct a comparative analysis of the concepts of the objective side of the crime and "actus reus" by studying their similarities and differences. Because in the criminal law doctrines and scientific studies of the two families of law that we mentioned above, there are scientifically controversial and problematic cases about the objective side of the criminal structure and "actus reus", which represents the external side of the crime.

In the theory and practice of criminal law of the Anglo-Saxon legal family, the existence of a criminal act based on "actus reus-mens rea" is the basis for the emergence of criminal responsibility.

It is known that, in contrast to the continental (Roman-Germanic) family of law, the structure of the crime in the family of common law is twoelement. The composition of the crime consists of a criminal act (actus reus) and a guilty attitude (mens rea). Political and socio-economic factors of the Middle Ages influenced the creation of such a two-element structure of crime in this family of law.

It should be noted that the theory of "corpus delicti" (composition of the crime) consisting of a criminal act based on "actus reus-mens rea" in the criminal law of the Anglo-Saxon legal family shows its shortcomings. Although the "corpus delicti" (criminal composition) existing in the common law family consisting of the concept of "actus reus-mens rea" has a long history of development, it causes various problems in the application of the related criminal law in the qualification of the act. Because there are no criteria (standards) for applying the criminal law related to it. This leads to free interpretation of the criminal law by law enforcement entities. Among the existing scientists in this family of common law, there are scientific approaches that deny each other about the "corpus delicti" (the composition of the crime) consisting of the concept of "actus reus-mens rea".

Methodology

Methods such as logical, systematic, historical, logical-legal, comparative-legal, analysis of criminal cases and statistical data, sociological surveys were used in writing the research work.

As well as analyzing of the criminal law of developed foreign countries like as USA, Canada, England and Wales, New Zealand, Germany, Hong Kong, Northern Ireland, Republic of Ireland, Australia.

Discussion

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Edward Coke (1552-1634), a mature scientist and jurist of his time, is one of the founders who contributed to the development of the concept of "corpus delicti" (criminal composition) and criminal act in this family of law. This concept is based on the principle "actus non facit reum nisi mens sit rea", which means that "the act does not make one guilty, unless the mind is guilty". In order for the crime to be socially dangerous and criminal, there must also be a guilty party, which consists of a mental attitude towards it. Although E.Kouk developed the concept of a criminal act based on this principle, it was not new. Because the initial emergence of this principle goes back to the scientific approaches of Roman law jurists. But he developed his scientific approach based on this principle and proved it as the basis of the concept of corpus delicti.

In Anglo-Saxon criminal law, actus reus-mens rea is central to criminal prosecution, but unlike Romano-Germanic law, it is not the only basis for criminal prosecution. Legislation, criminal law doctrine and practice sometimes deny mens rea, the subjective element of a crime.

For example, the definitions given to "actus reus" (criminal act) and "mens rea" (mental attitude) in the doctrine of criminal law of the Anglo-Saxon family of law reflect different scientific approaches, and there are many controversial cases. In the scientific studies and literature of this legal family, the concepts of "corpus delicti" and crime are diverse and can be divided into two large groups. They consist of:

1. Traditional scientific approach. This approach is the result of conservative scientific research. which represents the elements of crime and their structure as fixed. This scientific approach is accepted in most of the countries belonging to the Anglo-Saxon legal family. Its main problematic is the actus reus of criminal behavior as a central element. The presence of "actus reus" is the basis for bringing a person to criminal responsibility. It does not matter whether or not there is a "mens rea" mental attitude towards the criminal act. Another problem with this scientific approach is that it does not sufficiently define the structure of other elements of the crime. In particular, if the criminal act itself is sufficient, the criminal consequence caused by it and the types and signs of causal connection between them are not sufficiently defined.

This traditional scientific approach is conservative, i.e. it acquires an immutable character, and the existence of "actus reus" (criminal act) is the basis for bringing a person to criminal responsibility. That is, the committed criminal act includes the act, the criminal consequence, and the causal connection between the criminal act and the consequence. The fact that a criminal act has been committed in objective reality alone is sufficient for criminal prosecution.

This scientific approach is expressed in many scientific studies, in particular, in the scientific works of J. Austin, M. Moore, D. Husak, J. Fletcher, H. Morris, M. Gore, A. Enker, W. Blackston, G. Williams [2] International Journal of Advance Scientific Research (ISSN – 2750-1396) VOLUME 02 ISSUE 12 Pages: 100-115 SJIF IMPACT FACTOR (2021: 5.478) (2022: 5.636) METADATA IF – 7.356 Crossref in Conceller indexing Science MetaData



In the doctrine of criminal law existing in the continental (Romano-Germanic) legal family, the composition of the crime has four elements, and the committed criminal act (act or inaction), the criminal consequence and the causal connection between them are the signs of the objective side of the composition of the crime. The core of the crime is the composition of the crime, and the signs of the crime are primarily represented by the signs of the objective side of the crime. The rest of the elements are determined according to the objective aspects of the crime.

2. Alternative (alternative) scientific approach. It is based on the scientific approach of Paul Robinson among the concepts of crime. He opposes the scientific rule consisting of two elements of the crime, such as "actus reus - mens rea", and proposes in his scientific research that the crime consists of a set of these signs. His article "Should the Criminal Law abandon the Actus Reus – Mens Rea distinction?" The scientific work called was considered as an innovative scientific approach in the doctrine of criminal law, but this innovative scientific approach was not supported by many scientists.

Attempts to change the concept of crime in the doctrine of criminal law in the Anglo-Saxon family of law have not found their scientific and practical basis. It should be noted that the concept of the traditional four-element criminal structure existing in the doctrine of criminal law in the continental (Romano-Germanic) family of law is characterized by the fact that its signs and structure are clearly developed and defined.

The signs of the crime structure developed in the science and doctrine of criminal law are mainly determined by the signs of the objective side and they belong to a specific criminal act and are of great importance in solving the issue of criminal responsibility. The signs of the crime are represented by the signs that represent the elements of the crime. That is why the theory of criminal law reflects the scientific approaches N.F.Kuznetsova (A.N. Travnin, and V.N.Kudryavtsev) [3, P. 11, 46-47] that the core of the crime is the structure of the crime. The emergence of these scientific approaches was initially based on the understanding of the structure of crime based on the approach of "objectivity" and "normativity". Well-known supporters of the "objectivity" approach to understanding the structure of crime (A.N. Trainin, N.F. Kuznetsova and V.N. Kudrvavtsev) focused on "understanding the structure of crime based on the normative approach" as a result of long scientific research [4, P. 16]. As a result of scientific research and research, they came to a scientific conclusion, such as understanding the structure of the crime as the objective reality and legal description (characteristic) of the crime. M.Usmonaliev and P.Bakunov described their scientific views on the composition of the crime based on the "normativity" approach [5, P. 128], while A.S. Yakubov, M.Kh. Rustamboev, S.S. Navimov and M.Kurbanov described the composition of the crime based on the "objectivity" approach [6, P. 95, 137, 61, 41]

The signs representing the elements of the crime are determined by the signs of the objective side



of the crime. It can be said without hesitation that the core of the composition of the crime is made up of the signs of the objective side of the crime.

In our opinion, the Anglo-Saxon alternative (alternative) scientific concept represents the need to have the same structure as in the continental (Romano-Germanic) family of law, such as the crime and the elements of the crime. Based on this concept, the necessary elements "actus reus - mens rea" should give way to the signs of the crime and the elements of the crime.

In this research, it is appropriate to systematically and in detail analyze the above concepts of "actus reus - mens rea".

According to the traditional concept of "actus reus - mens rea", a group of scientists and researchers put the "actus reus" (criminal act) in the central place and leave the element of "mens rea" (mental attitude) outside its scopeThat is, they state their scientific views that a criminal act can exist without a mental relationship. According to another group of scientists, "actus reus" (criminal act) cannot exist without "mens rea" (mental attitude). "Actus reus" (criminal act) refers to the actual criminal act committed. If the actus reus (criminal act) committed does not contain the element of mens rea (mental attitude), even legal acts are criminalized by themselves.

Many scholars argue that in practice, "actus reus" (criminal act) does not exist without the element of "mens rea" (mental attitude). Indeed, such scientific views are considered to have a logical basis. Whether a criminal act has been committed, there must be a mental attitude towards it. This

corresponds to the philosophical principle of objectivity-subjectivity. At the same time, there is also the institution of "objective accusation" in the criminal law of the Anglo-Saxon legal family. An of this "absolute criminal example is responsibility". According to it, a person is responsible only for the actual criminal act committed. It is not important whether or not there is a mental reaction to the committed criminal actIn our opinion, this "simplified structure" of "actus reus" (criminal act) is not able to distinguish between criminal behavior and legal act. Several scientists, namely P.Robinson, J.Austin, A.Lynch and others [7, P. 187, 209, 116, 128], have described this in their scientific works.

Indeed, "actus reus" (criminal act), which represents a specific act committed, is a central element of criminal behavior. Glenville Williams views "actus reus" (criminal act) in criminal law as the committed criminal act, which has no alternative and represents the mental attitude of the person towards his act. He states that mens rea (mental attitude) cannot be prosecuted when it exists alone [8, P. 644].

Against the above, J. Mandjafik in his conceptual scientific work "The independence of actus reus" (independence of "actus reus"), he emphasizes that "When bringing a person to criminal responsibility, it is necessary to pay deeper attention to his subjective attitude towards the criminal consequences" [9, P. 11]. He cites as an example harming another person's life or health by means of "voodoo magic". From the author's scientific point of view, it is clear that in some cases "mens rea" (mental attitude) is sufficient. It



is enough to have "mens rea" (mental attitude) to prosecute a person. It does not matter whether the criminal act is directly present or not. For example, the first person who wants to get rid of a person whom he considers to be an enemy "goes to a person who practices voodoo magic (sorcery), teaches his enemy to one doll, sticks needles in it and performs various other magical rituals, so that the mental attitude to the act is enough to harm his life or health. even if the criminal act is not committed directly against the person.

When such actions are committed, the criminal purpose and desire to cause certain criminal consequences is necessarily realizedHowever, it should be noted that actions aimed at harming life or health by means of magic (sorcery) are not accepted by theorists and practitioners as "damage to personal life or health".

It can be said that the existence of "mens rea" (mental attitude) is not sufficient to bring criminal responsibility. Although "actus reus" (criminal act) does not exist directly, the fact that a person commits various actions based on his mental attitude does not result in criminal responsibility. In such cases, the question of determining the causal connection between the actions committed and the criminal outcome is controversial and problematic. In the analysis of the concepts of "actus reus" (criminal act) and "mens rea" (mental attitude) existing in the doctrine of criminal law of the Anglo-Saxon family of law, J. Fletcher [10, P. 166.] also described an approach similar to our scientific approach in his scientific works. He also points out that the question of determining causation in the above cases is difficult and problematic.

It should be emphasized that there is no single scientific approach to the nature and structure of "actus reus" (criminal act) in the criminal law of the Anglo-Saxon legal family. The view that "actus reus" (criminal act) consists of physical actions of a person's criminal behavior dates back to the historical XVIII-XIX centuries in the criminal law of this family of law. This issue is analyzed in detail in the scientific works of O. Holmes. He states that "Actus reus (criminal act) involves a voluntary element and is conscious because the act is controlled" [11, P. 54.].

From the scientific point of view of the above scientist, since the criminal activity of a person has acquired a voluntary nature, the conscious act consists of desire and desire, and the result of the criminal act is expected. In scientific works, scientists use different words, terms (word terminologies) to express the mental attitude towards the committed criminal act. The words "Will" used by them represent the volitional element of criminal behavior. A criminal act committed with desire is associated with the implementation and execution of a person's will [12, P. 30.].

A person who is not controlled by a voluntary element is not criminally responsible for his mental attitude. O.Holmes tried to prove this in his scientific works, saying that "a spasm in an organism (uncontrollable muscle contraction in an organ) is not considered an act (a criminal act)." [13, P. 54]. Glenville Williams tries to prove International Journal of Advance Scientific Research (ISSN – 2750-1396) VOLUME 02 ISSUE 12 Pages: 100-115 SJIF IMPACT FACTOR (2021: 5.478) (2022: 5.636) METADATA IF – 7.356 Crossref O SGOGIE METADATA SMORTH Cat* MENDELEY



that the criminal legal content of the act is formed by the will of the person who committed it and is carried out through it [14, P. 12].

The scientific views against the scientific approaches of the above scientists are visible in the works of J. Mandjafiko. According to him, a criminal act becomes significant only when there is no "mens rea" (mental attitude) as the main subjective determinant of attitude. the characteristic and sign of volition. Comparing the elements of "desire and desire" and voluntariness criminal behavior of creates various terminological (terminological) confusions in the theory of criminal law [15, P. 15].

J.Turnir, who supported the scientific views of the above-mentioned scientist, states his scientific views as follows. He noted that increasing the number of subjective elements of a criminal act may cause various errors among law enforcement entities in determining the criminality of the committed act. In fact, the volitional element of criminal behavior and "desire" are synonymous terms. If the "actus reus" (criminal act) expresses a willful character, it certainly defines the "mens rea" (mental attitude) in some sense in the execution of these actions. As a result, "mens rea" (mental attitude) does not acquire meaning [16, P. 53].

The scientific approaches of the above scholars have mutually exclusive views. Equating "desire and desire" and volitional elements to each other is one of the gross mistakes of the abovementioned scientists. As every activity of a person, as well as a criminal act, has internal and external aspects, these aspects are composed of a set of specific elements and signs. In criminal law of the Romano-Germanic family of law, "will" is expressed as part of the volitional element. For example, if a person realizes that his act is socially dangerous, sees its criminal consequences and wants them to happen, then the criminal act is considered to be committed with intent.

The desire to commit a criminal act must always be compared with the clear expression of the criminal consequences. A person should know what criminal consequences may occur as a result of his criminal behavior. Voluntary feature (element) of a criminal act is related to the feature of control in committing the act, and necessarily requires a mental element (understanding). However, it should be emphasized that in the element of volition of a criminal act, a person does not always know in advance the possible criminal consequences.

J.Manjafikon's scientific approach to terminological (terminological) confusion about the synonymous terms "will and desire" (thinking) and volitional elements present in a criminal act is not scientifically based and his scientific views cannot be supported. It derives from the presumption of common similarity in comparing these elements to each other. The comparison of these elements by the scientist has not been sufficiently scientifically proven.

It can be seen that the scientist's approach to dividing the signs of "actus reus" (criminal act) related to voluntary actions is not scientifically based. He claims that the voluntary character





(characteristic) of criminal behavior excludes actions, semi-reflex actions from its structure. He cites coughing, breathing, etc. as examples. These actions are not controlled by consciousness, they are done unconsciously, they are also done semiconsciously, but they can be controlled [17, P. 29].

Based on the above, the scientist expresses his scientific approach that these actions correspond to "actus reus" (criminal act) in the theory of criminal law. The scientist admits that such practice is rare.

In our opinion, the scientific approach of the above-mentioned scientist has nothing to do with criminal behavior. Such scientific approaches are irrelevant to scientific discussion.

D.Mandjafiko's third argument against the existence of a sign of volition in "actus reus" (criminal act) is related to the problem of criminal liability for inaction.

Inaction acquires criminal legal significance only when a person is aware of his moral and legal obligations and has the opportunity to fulfill them. Awareness of obligations in criminal acts of inaction is related to complex mental processes, which cannot be studied within the framework of "actus reus" (criminal act). As mentioned above, "actus reus" (criminal act) consists of bodily actions performed by a person to achieve a certain resultReflex actions or actions performed under the influence of insurmountable forces are excluded. Actus reus (criminal act) emphasizes elements such as control and awareness of body movements in the act. In our opinion, these elements are integral parts of "actus reus" (criminal act).

In the theory of national criminal law belonging to the continental (Romano-Germanic) family of Sh.D.Khaidarov law. H.R.Ochilov, and Z.Z.Shamsidinov [18, P. 34] state that an act committed under the influence of irresistible force (under the influence of natural phenomena or natural reflexes) is socially dangerous does not count as an act. It should be emphasized that mental activity acquires a complex character in immobility. In it, a person must make a decision to refrain from committing an act after evaluating certain circumstances and their results. Inaction is committed in the form of inactive (passive) criminal behavior. For example, leaving a person at the scene of the act without assistance, that is, leaving him in danger. The voluntary nature of inaction in this case is determined by the awareness of not doing the actions that should be done. A decision not to perform an action that should be taken falls within the scope of "mens rea" (mental attitude) [19, P. 202].

Inaction, which is an inactive (passive) form of criminal behavior, differs from action in the structure of a certain voluntary act (action). In immobility, a person performs certain volitional actions. For example, leaving the place where the crime was committed, pretending not to have seen it, being indifferent to how the incident happened.

The above scientific approaches were aimed at determining the nature of voluntariness (element) as the central element of "actus reus"



(criminal act). There are also other concepts of "actus reus" (criminal act) in the criminal law of the Anglo-Saxon common law family. In particular, the concept is a "managed" scientific approach, whose founder is H. Hart [20, P.100]. The main idea of this scientific direction is to distinguish between constructions such as "there is no way to do otherwise" and "the burden of choice in certain cases (conditions)" [21, P. 1529-61]. According to the scholars who support this scientific approach, criminal law traditionally evaluates such changes differently at the initial stage of criminal behavior. According to the first main idea, physical control is usually lacking in this criminal case. Therefore, the possible action is excluded from the "actus reus" (criminal act).

The author states that a person commits a criminal act only if he can control it. According to the second idea of this scientific approach, a person is forced to commit a criminal act under the influence of external factors due to the lack of choice in certain situations. Such actions constitute "actus reus" (criminal act). Only in some cases they may not be considered a criminal act. From this point of view, reflex actions are not considered acts and they are equated to acts committed as a result of physical coercion. The act of physical coercion is determined by other persons. At the same time, it would be unreasonable not to recognize acts committed under the last necessity or compulsion. When committing such actions, the choice of legal or illegal behavior is noticeably limited [22, P. 30].

The above scientific approaches differ in the forms related to the awareness of the person and

his behavior. In particular, the volitional approach is concerned with conscious and unconscious actions controlled by the brain. A behavioral approach is concerned with the possibility of choosing different actions. As a result, there are options for choosing behavior. Criminal behavior or illegal behavior.

RESULTS

In the doctrine of criminal law of the Anglo-Saxon family of law, voluntary and behavioral (controlled) scientific approaches are not sufficiently scientifically based. In our opinion, the fact that a person is aware of the criminality of his actions and can control them gives him the opportunity to choose his behavior. It should be emphasized that every voluntary criminal act is controlled, and every controlled criminal act is voluntary. Only then can any act be considered a criminal act. The scientific debate about the definition of "actus reus" (criminal act) seems illogical. Because it is difficult to separate the researched concepts as a result of scientific approaches.

It is appropriate to do a comparative analysis of the characteristics and elements of a certain crime in the criminal legislation of countries belonging to the continental (Romano-Germanic) and general (Anglo-Saxon) family of law.

In particular, theft is the name of a crime defined by the criminal law in the state of California, Canada, England and Wales, Hong Kong, Northern Ireland, Republic of Ireland, Australia. In these countries, the "actus reus" of theft is usually





defined as the taking, keeping, or using the property of another without permission. Theft is expressed in the unlawful depriving of the owner of the property or the legal owner of the property in possession of the "mens rea", that is, the mental attitude towards the committed act (guilty mind -"guilty mind"), or the intentional permanent deprivation of the possession of this property [23].

In England and Wales, theft is a statutory offence, created by section 1(1) of the Theft Act 1968. This offence replaces the former offences of larceny, embezzlement and fraudulent conversion. The marginal note to section 1 of the Theft Act 1968 describes it as a "basic definition" of theft. Sections 1(1) and (2) provide:

1.-(1) A person is guilty of theft, if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it; and "thief" and "steal" shall be construed accordingly.

(2) It is immaterial whether the appropriation is made with a view to gain, or is made for the thief's own benefit.

Sections 2 to 6 of the Theft Act 1968 have effect as regards the interpretation and operation of section 1 of that Act. Except as otherwise provided by that Act, sections 2 to 6 of that Act apply only for the purposes of section 1 of that Act [24].

Section 322(1) of the Criminal Code provides the general definition for theft in Canada: 322. (1) Every one commits theft who fraudulently and

without colour of right takes, or fraudulently and without colour of right converts to his/her use or to the use of another person, anything, whether animate or inanimate, with intent

(a) to deprive, temporarily or absolutely, the owner of it, or a person who has a special property or interest in it, of the thing or of his property or interest in it;

(b) to pledge it or deposit it as security;

(c) to part with it under a condition with respect to its return that the person who parts with it may be unable to perform; or

(d) to deal with it in such a manner that it cannot be restored in the condition in which it was at the time it was taken or converted [25].

Conclusion

1. In summary, the comparative legal analysis and problems of the objective aspect of the crime and the concept of "actus reus" are as follows:

Firstly, in the theory and legislation of criminal law belonging to the continental (Romano-Germanic) legal family, the only basis of criminal responsibility is the existence of all the symptoms of the crime. The basis of the crime is the structure of the crime, and social danger and illegality are the necessary signs of the crime based on the signs of the structure of the crime. The legislator reflects the socially dangerous act in legislation and creates the signs of illegality, culpability and punishment of the crime. The core of the signs of the criminal structure is formed by



the signs of the objective side of the crime, and other signs of the criminal structure are formed depending on it. In the Anglo-Saxon (common) family of law, a criminal act is considered a crime based on the concept of "actus reus-mens rea". This concept is based on the principle "actus non facit reum nisi mens sit rea", which means "the act does not make the person guilty if the mind is not guilty".

Secondly, in the theory and legislation of criminal law belonging to the continental (Romano-Germanic) family of law, each crime has its own composition, and this composition of the crime has four elements. In the family of common law, the crime consists of two elements, that is, "actus reus-mens rea".

Thirdly, in the theory and legislation of criminal law belonging to the continental (Romano-Germanic) legal family, its elements (aspects) representing the symptoms of the criminal structure are expressed as an integral whole, and all the signs representing each element (aspect) of the criminal offense are taken into account when qualifying a criminal act. In the common law family, the presence of "actus reus" is the basis for bringing a person to criminal responsibility. It does not matter whether or not there is a "mens rea" mental attitude towards the criminal act (traditional approach).

Fourthly, The theory of criminal law, which belongs to the continental (Romano-Germanic) family of law, is distinguished by the systematic and complementary nature of the concepts of crime and the structure of crime. That is, the signs of a crime consist of a set of objective and subjective signs representing its four elements (aspects), and in the legislative criminal law, each crime provides signs consisting of a sum of "minimum" and "sufficient". For example, "Theft" expressed in Article 169 of the Criminal Code of the Republic of Uzbekistan is provided by the legislator as a combination of "minimum" and "sufficient" objective and subjective signs representing the nature of this crime. Objective signs of the crime of theft - other's property, "hidden" robbery, subjective signs - guilt, sanity, age of criminal responsibility, individual.

In the common law family, the actus reus (criminal act) includes a voluntary element and is considered conscious because the act is controlled. "The words "desire" represent the volitional element of criminal behavior. A criminal act committed with desire is associated with the implementation and execution of a person's will. Comparing the elements of "desire and desire" and voluntariness of criminal behavior has created various terminological confusions in the theory of criminal law.

As a result of the comparative analysis of the criminal law theory and legislation of countries belonging to the continental (Romano-Germanic) and general (Anglo-Saxon) law families, it can be concluded that a criminal act consisting of the concept of "actus reus - mens rea" in the general (Anglo-Saxon) law family (deed) and the socially dangerous act consisting of action or inaction in the continental (Romano-Germanic) family of law cannot fully cover criminal activity consisting of criminal behavior of a person and cannot reveal





the content of the concept of crime. First, instead of a socially dangerous act, the phrase criminal act should be used. Secondly, socially dangerous act or criminal act are narrow phrases that cannot fully cover the essence of some crime.

2. In our opinion, it is necessary to strengthen the provisions on the composition of the crime, which is the basis of responsibility formed in the scientific-theoretical doctrine, as well as in the criminal legislation of foreign countries, taking into account the objective aspects of the crime. For this reason, it is appropriate to add Article 161 of the second part of the current criminal law, entitled " Basis of liability", to the following content:

Article 161. Crime component

1) The crime Component represents the minimum and sufficient set of objective and subjective signs provided by the criminal law, which qualify a harmful act as a specific crime.

2) The crime component shall be the legal basis for the qualification of crime according to a specific article of this Code.

This norm is reflected in the criminal codes of Moldova (Art. 52) and others [26]. The strict strengthening of this provision as a norm of the criminal law serves to prevent different interpretations of legal norms by courts and investigative bodies, as well as the correct qualification of the committed crime and the correct application of the principles of justice, humanity, and the inevitability of responsibility. Also, the introduction of this amendment to the criminal law clarifies the relationship between the concepts of crime and the composition of the crime, and leads to the correct classification of crimes by law enforcement officers.

3. Concepts of crime and punishment occupy a central place in the doctrine of criminal law. A formula with a structural and logical algorithm (sequence) for any crime can be: M1–M2–M3–M. M1–Жиноят объектив томони белгилари; M2– жиноят таркиби бошқа элментлари ва белгилари; M3–жиноят белгилари; М–жиноят.

M1–M2–M3–M. M1–signs of objective side of the crime; M2–other elements and signs of crime component; M3–crime signs; M–crime.

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