



 Research Article

SUBJECTIVE SIGNS OF THE CRIME OF EXTORTION

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ABSTRACT

Extortion is considered to be a socially dangerous act included in the economic crimes of the Criminal Code, which involves the use of physical or other force, pressure on the victim himself or a loved one, or the disclosure of information that the victim wants to be kept secret (blackmail).) by threatening to hand over someone else's property, the right to property, or to demand the performance of an act in the direction of property for the guilty party, or otherwise put the victim in a situation that forces him to give up his property or the right to property it consists of The main characteristic of this social act is the use of intimidation to force the victim to comply with the demands of the perpetrator. Also, as a result of this intimidation, the victim is forced to comply with the demands of the perpetrator, otherwise the threat may come true in the future. And it is precisely by this feature that this social act differs from aggression. Extortion is a type of encroachment on other people's property, more precisely, robbery of other people's property, taking it by force. Robbery of other people's property means taking or transferring someone else's property for the benefit of the guilty person or other persons, causing damage to the owner without compensating for it. The direct object of the crime of robbery of other people's property is the social relations that ensure the right of ownership of the property. From this point of view, the object of this type of crime is another's property.

KEYWORDS

Crime, Criminal Code, subject of the crime, the time, place, condition of committing crime, criminal structure, a natural person, a foreign citizen.

INTRODUCTION

Of course, no crime happens by itself, it is committed by a certain subject, that is, a person(s), along with various external factors. One of the necessary elements of the criminal structure is the subject of the crime.

As the subject of the crime:

- committed a socially dangerous act;
- has reached the age specified in the criminal law;
- sane;
- a natural person, i.e. a citizen of the Republic of Uzbekistan, a foreign citizen and a stateless person [1].

Only a person who meets all of the above signs can be considered the subject of a crime, otherwise the composition of the crime will be incomplete and it can be considered that there are no signs of a crime. Based on this, it can be said that according to criminal law, a person who commits a socially dangerous act (action or inaction) prohibited by the criminal law and can be criminally responsible for it is recognized as the subject of the crime [2].

According to the criminal law, only a person who has reached the legal age can be a subject of a crime. Determining the age at which responsibility for a crime is determined, first of all, comes from the social formation of a person

and the expediency of using methods and methods specific to criminal law. Pursuant to Article 17 of the Criminal Code of the Republic of Uzbekistan, sane individuals who have reached fourteen years of age before committing the crime are held responsible for the crime of extortion. According to M. Kh. Rustambayev, "The subject of this crime can be any sane individual over the age of 14" [3].

So, let's take a closer look at the signs of persons who should be held criminally responsible for the crime of extortion provided for in Article 165 of the Criminal Code of the Republic of Uzbekistan.

According to Article 17 of the Criminal Code of the Republic of Uzbekistan, the subject of extortion is a 14-year-old, sane individual.

When the legislator strengthened the age of responsibility for the crime provided for in Article 165 of the Criminal Code, it was based on the fact that a person can understand the social danger of this crime from this age, according to the level of his mental and spiritual development. This means that at this age, each individual is able to understand both the factual and social characteristics of extortion. "A teenager understands very early that it is impossible to steal someone's property and kill someone (the early socialization process provides an opportunity for this). However, legal

consciousness appears in a teenager only when he reaches a certain age. In this case, the teenager will be able to understand not only the factual aspect of his actions, but also their social significance" [4]. Based on this, the person who commits the act for which responsibility is established by law must understand that this act is a crime. Today, due to the development of information and communication tools, most 14-year-old children have mobile communication devices. There is a very high possibility that they will extort each other under the condition of not disclosing some information, but they may not understand the legal and legal consequences of this. Based on this, it is necessary to pay attention to these circumstances when imposing a punishment.

Sanity of the criminal subject is a necessary condition of criminal liability. A different point of view has been put forward in the science of criminal law, which proposes to look at sanity, first of all, as a sign of the subject [5]. "Saneness is a sign that determines the punishment of an act committed by a natural person. Whether a crime is found worthy of punishment under the criminal law depends on the sign of sanity" [6]. Because of this, the doctrine of sanity is considered one of the main issues of criminal law theory. In general, sanity is always recognized as an integral sign and characteristic of a person who should be held criminally liable.

The operation of the extortion mechanism depends on the subject of this type of crime. The information cited in the legislation and investigative practice show that the crime of

extortion is mainly committed by the following persons:

- by one person alone;
- in advance collusion by a group of persons organized together to carry out one extortion;
- a stable organized group, systematically operating, established for extortion;

The above-mentioned criminal subjects are held responsible for the crime of extortion according to the relevant clauses of Article 165 of the Criminal Code. Based on this, it would be appropriate to analyze the above-mentioned subjects of crime one by one. First of all, in the process of committing the crime of extortion by one person alone, one person is both a threat and a property interest. In this case, only he controls his actions.

A person who commits the crime of extortion alone may have different qualities and this affects the qualification of this crime. Below are the characteristics of a person who commits the crime of extortion alone:

- the person who committed this crime for the first time;
- a repeat or dangerous recidivist who commits this crime;
- extremely dangerous recidivist;
- a person who commits a crime in the interests of an organized group.

These subjects can specialize both in a certain field (for example, trade structures) and in relation to certain social groups of the population.

The second is the premeditated extortion by a group of individuals. Extortion by joint premeditation means when each participant of the crime performs his/her own part of the same crime, contributes to the achievement of the criminal result and connects his/her actions with the actions of other participants, mutual actions of the partners conditionality and interdependence are understood. Reciprocity of actions is manifested in a purely technical distribution of roles or in such a distribution of roles among participants of extortion with legal significance. The composition of extortion is also limited to the fact that one of the accomplices actually fulfills all the signs of an objective party, and the actions of others are limited to the fact of being at the place of the crime in order to put psychological pressure on the victim, then this criminal act is considered to be the commission of the crime of extortion by a group of persons. can be qualified. These persons commit the crime of extortion in partnership, and in order to carry out threats against the victim or his relatives, in order to strengthen his reality, they may destroy or damage property, distribute information inappropriate for the victim, partially or completely. If there are grounds, such persons should be held responsible for the totality of the crimes, their participation in extortion and the commission of these actions. Qualifying sign of extortion is simple partnership (joint execution) and complex (with division of roles) pre-agreed

commission by a group of persons. At the same time, in order to consider the subject of the crime as a group, it is enough to have only one executor with the participation of other partners at the same time. For example, a conspiracy participant who formed the objective aspect of the crime of extortion, but did not directly participate in the execution of actions, is considered a person interested in receiving property from the victim, because he is considered a member of the group. The fact that he is a member of the group is explained by the fact that he committed this criminal act together with the executor. In addition, he knows that he belongs to the only criminal activity committed in partnership.

The third is an organized group. In Article 29, Part 4 of the Criminal Code of the Republic of Uzbekistan, an organized group is defined as an organized group in which two or more persons join together to carry out criminal activities in advance [7]. First of all, the members of the organized group must reach a preliminary agreement to commit one or more crimes, but in this case, it is not about conspiracy, but about bringing people together for these purposes. Uniting individuals into a stable group implies pre-planning and careful preparation of criminal actions, preparation of necessary materials for the commission of the crime, and taking measures in advance to conceal the crime. At this point, it can be said that the stability of this organized group, the relative duration of its existence, the strength of criminal ties is confirmed by the relative permanence of the members of the group united by the common goal of engaging in

systematic criminal extortion, i.e., the presence in a permanent group. The stability of such a group is evident in repeated crimes committed by this group in the same composition or with the replacement of 1-2 members. An important distinguishing feature of an organized group, as noted in the literature, is the hierarchical system of relations in the group due to the existence of the organizer and his role. The group has internal discipline, its members obey the instructions of the organizer and general rules of conduct. The group has internal discipline, its members obey the instructions of the organizer and general rules of conduct.

The subjective side of the crime is a specific form of guilt, which is directly related to the commission of the crime, covers the specific mental attitude of the person to the socially dangerous act committed by him, as well as the motives and goals of the person during the commission of the crime. and mental activity characterized by mental state. The subjective side of the criminal structure is the mental attitude of the guilty person towards the socially dangerous act he committed, which is defined as a crime in the criminal law, and expresses his guilt, motive, purpose and feeling [8].

Guilt, which describes the mental attitude of a person to extortion of other people's property, is the main sign of the subjective aspect of the crime under consideration [9]. The definitions of forms of guilt given in Articles 21 and 22 of the Criminal Code of the Republic of Uzbekistan describe the mental attitude of a person to both a socially

dangerous act and socially dangerous consequences.

The subjective side of extortion describes the mental attitude of a person to the socially dangerous act he has committed.[10] A complete and comprehensive identification of the signs describing the subjective side of the crime is a necessary condition for the correct qualification of the crime, the determination of the level of social danger of the act and the person who committed the crime, and the individualization of responsibility. Based on this, it can be said that the subjective side of extortion is characterized by direct intention, selfish intention and purpose. Even if the criminal knows the illegality of the demands made as a means of threatening the victim, he wants to carry out these actions, thereby seeking to acquire someone's property, the right to property, or to perform other actions [11].

Subjectively, extortion is characterized by certain mental processes. These processes take place in a unique form and are holistic in their content, covering all criminal actions aimed at obtaining property benefits through extortion.

The subjective aspect of extortion, like other socially dangerous acts, is guilt, motive and purpose [12]. Guilt, guilt of a person in committing extortion includes the main semantic load in the subjective aspect of extortion. It should be noted that extortion is committed only with direct intent. Here, the intent to commit the crime of extortion includes:

- the content of the extortion demand and the fact that its satisfaction is free, that is, robbery;
- lack of rights against the subject of crime, i.e. illegality of extortion;
- impact on the life or health of the victim and the content of the threat;
- the method of expression of coercion, its combination with threats, the fact of bringing them to the attention of the victim;
- acceptance of the threat by the victim as objectively feasible.

Thus, a person understands that the act committed by him is socially dangerous, dangerous for the property interests of another person, as well as for property rights, but does not want to illegally occupy another person's property or have a property interest in another way. It is important to determine the subjective aspect of this socially dangerous act in order to actually implement the crime of extortion. Based on this, it can be said that it is impossible to solve a number of issues correctly without determining the true content of the specific form and level of the committed criminal act [13]. For example, recognition of a person as a very dangerous recidivist (if the committed act has sufficient grounds to be considered a crime of extortion), parole (if the level of the crime of extortion is light, or there are other factors in general (for example, if the person committed the act out of compulsion) can be such as amnesty [14].

It should be noted that the motive and purpose are obligatory signs of the subjective aspect of this crime. The malicious motive of extortion related to the criminal purpose can be manifested as follows: the desire to satisfy a selfish desire (for example, the desire to get rich quickly by taking over someone else's property); desire to satisfy the need for violence [15]. In this case, the motive of extortion originates from the initial criminal purpose, i.e. illegal possession of another's property or obtaining property interest in another way, and later this motive is focused on committing the crime of extortion together with the desire to use violence.

In short, the issue of causation is so complex that in criminal law theory, the theories and concepts of causation are often confused. It is not possible to generalize one of the eleven theories of specific causation in solving the issue of causal connection between any criminal act and the resulting socially dangerous consequence. As a solution to this issue, it is necessary to develop specific criteria, rules and principles for determining causality [16].

Thus, the subjective aspect of extortion should be considered broadly, taking into account the actual actions taken and their purpose [17]. The time of thinking and creating a sequence of actions for committing an extortion crime should include the extortionist's anticipation of possible consequences. For example, in the process of demanding material benefit from the victim, it may be damage, destruction or physical and mental injury to his property.



In extortion, the voluntary moment of intent is characterized by, firstly, forcing the victim to give property benefits by means of threat or force, and secondly, the desire to obtain property benefits in this way, thereby causing property damage to the victim. In this regard, it is not limited to bringing a property claim accompanied by threats or violence to the attention of the victim, or showing a desire to commit criminal acts, which constitute objective signs of this crime.

REFERENCES

1. Ochilov X.R., Xaydarov Sh.D., Shamsiddinov Z.Z. "Jinoyat huquqi" (Umumiy qism). O'quv qo'llanma – T.: TDYU nashriyoti. 2021. – B. 33
2. Karimov X. Jinoyatlarni kvalifikatsiya qilishda subyektga mezonlarning ahamiyati // Yuridik fanlar axborotnomasi. Ilmiy-amaliy huquqiy jurnal. – Toshkent, 2018. - №2. – B. 149-154
3. Rustambayev M.X. O'zbekiston Respublikasi jinoyat huquqi kursi. Tom 3. Maxsus qism. Shaxsga qarshi jinoyatlar. Tinchlik va xavfsizlikka qarshi jinoyatlar. Darslik. 2-nashr, to'ldirilgan va qayta ishlangan – T.: O'zbekiston Respublikasi Milliy gvardiyasi Harbiy-texnik institut, 2018.- B. 162
4. Российское уголовное право. Общая часть. / Под ред. В.С.Комиссарова. – СПб., 2005. – С. 206.
5. Павлов В.Г. Субъект преступления С. 48
6. Жуковский В.И. Субъект преступления в уголовном праве России: Автореф. дисс. ...канд. юрид. наук. – Ставрополь, 2002. – С. 13
7. O'zbekiston Respublikasi Jinoyat kodeksi. <https://lex.uz/docs/-111453>
8. Rustambayev M.H. O'zbekiston Respublikasi jinoyat huquqi kursi. T.1. Umumiy qism. Jinoyat to'g'risida ta'limot: Darslik. – Toshkent: ILM ZIYO, 2011. – B. 164
9. Allanova A. General conditions for release from criminal liability in connection with the fact that the guilty person has actually repented of his act // International Journal of Advance Scientific Research. – 2022. – T. 2. – №. 12. – С. 94-99.
10. Abdurasulova K., Buranova R. Analysis, assessment and forecast of the criminal situation in the republic of Uzbekistan // The American Journal of Political Science Law and Criminology. – 2023. – T. 5. – №. 07. – С. 47-58.
11. Abzalova K. M. Subject of a crime under French criminal legislation // the American journal of political science law and criminology. – 2021. – T. 3. – №. 01. – С. 63-68.
12. Allanova A. Antisocial behavior of a minor is an objective sign of a crime in the form of involvement in actions // Review of law sciences. – 2020. – T. 2. – No. Special issue. – pp. 183-189. (Алланова А. Антисоциальное поведение несовершеннолетнего – объективный признак преступления в виде вовлечения в действия // Review of law sciences. – 2020. – T. 2. – №. Спецвыпуск. – С. 183-189.)
13. Хакимов К. Distinctions in crimes committed in the state of affect are similar to crimes of similar complex crimes // Юридик фанлар ахборотномаси. – 2019. – №. 3. – С. 143-148.
14. Allanova A.A. Liability for violation of the legislation on religious organizations

//journal pravovyx issledovaniy. - 2022. - Т. 7.
– no. 11. (Алланова А.А. Диний ташкилотлар тўғрисидаги қонунчиликни бузганлик учун жавобгарлик //журнал правовых исследований. – 2022. – Т. 7. – №. 11.)

14. Khudaykulov F. K. CONCEPTS OF CAUSATION IN CRIMINAL LAW: PROBLEMS, ANALYSIS AND SOLUTIONS //International Journal of Advance Scientific Research. – 2023. – Т. 3. – №. 06. – С. 276-293.

15. Khudaykulov F. K. THE OBJECTIVE SIDE OF CRIME AND THE ACTUS REUS CONCEPT: COMPARATIVE-LEGAL ANALYSIS, PROBLEMS AND PROPOSALS //International Journal of Advance Scientific Research. – 2022. – Т. 2. – №. 12. – С. 100-115.

16. Худайкулов Ф. Х. TIME OF COMMITTING A CRIME IS NECESSARY SIGN OF INTENTIONAL KILLING OF NEWLY-BORN CHILD COMMITTED BY MOTHER: NATIONAL AND FOREIGN EXPERIENCES //ЖУРНАЛ ПРАВОВЫХ ИССЛЕДОВАНИЙ. – 2022. – Т. 7. – №. 6.

17. Khudaykulov F. K. Force And Threat Of Violence Are As The Ways Of Commission Of Rape: National And Foreign Experience //Psychology and Education Journal. – 2021. – Т. 58. – №. 1. – С. 1123-1132.