

Criminal Legal Characteristics of Kidnapping

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Abstract: The corpus delicti plays an important role in the study of any socially dangerous act. The composition of the crime consists of objective and subjective signs. The article reveals the objective signs of kidnapping. The object views are sorted vertically and horizontally. The generic, specific, and direct objects of human abduction are determined. Definitions are given for each concept. The main, additional, and optional objects are defined. The objective side of the kidnapping is revealed. The types of kidnapping are revealed. The concept of kidnapping is revealed. Article 137 of the Criminal Code of the Republic of Uzbekistan is disclosed on the objective side. Parts of this article are being studied. The article also reveals the subjective signs.

Keywords: kidnapping, object, common object, generic object, specific object, immediate object, additional object, physical freedom, objective side.

INTRODUCTION

The corpus delicti is a set of objective and subjective signs characterizing a specific socially dangerous act as a crime. A crime is a culpable, socially dangerous act prohibited by the Criminal Code under threat of punishment. Every crime has its own corpus delicti.

When studying each crime, its criminal and legal characteristics should be disclosed. A criminal law characteristic is a set of objective and subjective signs of a crime. In turn, objective features include the object and the objective side. The subjective signs include the subject and the subjective side.

In order to correctly disclose the composition of the crime, first of all, the general part of the criminal code should be carefully studied, since the general part contains all the rules for applying the special part. A special part of the Criminal Code discloses all types of socially dangerous acts that are recognized as crimes in this state. If there is no act in the special part, then it cannot be regarded as a crime and there will be no responsibility for it. In this article, we will reveal the corpus delicti of one socially dangerous act. This crime refers to crimes against freedom. Freedom is one of the objects of criminal law protection.

METHODS

To sort out, to study any sphere of life, any subject, you need a methodology. Methodology is the study of scientific activity based on different methods. And so in our work we have applied the following methods: A method of observation in the study of a socially dangerous act.

A method of comparison when studying specific concepts and comparing them with each other in order to reveal the concept of each type and show that each concept has its own meaning.

The method of abstraction, when writing this work, we studied only the corpus delicti of kidnapping. That is, we have chosen a certain property of the studied subject and revealed it.

Methods of analysis and synthesis. These methods are used in all scientific papers when a phenomenon is separated and studied separately (analysis) and when the results are combined (synthesis).

So, in our work, we divided the object of the crime into types and studied each separately. We also gathered the obtained data into one conclusion. When writing the work, we used the accumulated knowledge from all the time we studied criminal law. The main normative legal act for writing this work was the Criminal Code of the Republic of Uzbekistan.

RESULTS

The abduction of a person should be understood as his capture and transfer to another place, committed against or against the will of the victim and aimed at his subsequent illegal detention.

The disclosure of objective signs will begin with the object of the crime. In criminal law, an object is understood as a social relationship that is harmed as a result of committing a crime. In criminal law, there is a differentiation of objects vertically and horizontally. Vertically, the objects are divided into general, generic, specific and direct.

A common object is the totality of all public relations protected by criminal law. This set is given in article two of the Criminal Code of the Republic of Uzbekistan: the individual, his rights and freedoms, the interests of society and the state, property, the natural environment, peace, and human security.

A generic object is a social relationship that is united into homogeneous groups and is part of a common object. A generic object is a condition for dividing a Special part of the Criminal Code into sections. Kidnapping is included in the first Section of the Special Part of the Criminal Code, which is called "Crimes against the person." The generic object of kidnapping is a person. Thus, the criminal legislation of the Republic of Uzbekistan puts the individual in the first place in the system of criminal law protection.

A specific object is a part of a generic object, social relations, united in a certain group according to special characteristic features. A specific object is a criterion for dividing sections of a Special part of the Criminal Code into chapters. Chapter six, which includes kidnapping, is called "Crimes against freedom, honor and dignity". The specific object of this crime is freedom, honor and dignity. In addition to kidnapping, this chapter includes the following crimes: human trafficking; forcing a woman to marry or preventing her from marrying; forcible unlawful imprisonment; slander and insult.

The direct object is recognized as specific social relations that are harmed in the commission of a crime. The immediate object of kidnapping is social relations that ensure the physical freedom of a person. Freedom is determined by a number of rights that a person has: the right to personal integrity, the right to free movement, freedom of choice, freedom of will.

"Recognition as the direct object of the analyzed corpus delicti, along with human freedom and personal inviolability, unnecessarily and artificially expands its scope. The argument of this thesis is that the concept of "inviolability of the person" originally belongs to the constitutional and legal theory and assumes, first of all, the obligation of the state to ensure the exercise of legitimate rights and freedoms of the individual. Pointing to human dignity as the direct object of human abduction is also unjustified, since human dignity is an optional object of this crime. In the case of

violence that is not dangerous to life and health during the abduction of a person, the main direct object remains the physical freedom of a person, there is no additional object, and the optional object will be the bodily integrity of the individual" [1].

Horizontally, the main, additional and optional objects are distinguished. If the main (mandatory) object is present in each act, then additional or optional objects in acts that simultaneously encroach on two or more objects.

An additional object is present when it is specified in the article along with the main object. Thus, in the kidnapping of a person with a qualifying feature in paragraph "b" of part 3 of Article 137: kidnapping, which entailed serious consequences, an additional object may be life or health [2].

An optional object is a social relationship that is harmed in the commission of a specific crime, but, unlike the main and additional object, the optional object is not specified in the article and does not affect the qualification. When committing a kidnapping, the honor and dignity of a person may be an optional object.

DISCUSSION

The disposition of article 137 of the Criminal Code is a reference: "Kidnapping in the absence of signs provided for in Article 245 of this Code." A reference disposition is a disposition that indicates a criminal act, in our case, kidnapping, and there is a reference to another provision of the Criminal Code, in our case, to article 245 of the Criminal Code."

The abduction is considered to be over from the moment of capture and the beginning of the victim's movement.

It is possible to kidnap a person by deception or abuse of trust.

The objective side is expressed in the open or secret possession of a person, the movement of a person from one place to another, followed by his retention. In addition to open and secret kidnapping, there is also a third form – by deception.

The seizure can occur: secretly, when the abduction takes place in the absence of outsiders or in their presence, when they do not suspect the abduction; openly, when outsiders see and realize the nature of the abduction, the perpetrator must also be aware that outsiders understand about the nature of the abduction; through deception or abuse of trust.

The objective side should reveal four signs: 1) taking possession of a person in any way; 2) removing a person from his habitat; 3) moving a person from one place to another; 4) subsequently keeping him in another place.

All types of kidnapping are divided into two groups: open and hidden (latent).

The open ones are divided into two types: 1) kidnapping without combination with other crimes; 2) kidnapping with combination with other crimes. In this case, kidnapping is the main act, all other crimes revolve around kidnapping.

The second group (hidden) differs in that kidnapping acts as an auxiliary means for committing other crimes.

Article 137 of the Criminal Code consists of three parts. For the first part of Article 137 of the Criminal Code, that is, for kidnapping, the following sanctions are provided: restriction of liberty from three to five years or imprisonment from three to five years. Thus, the first part is a less serious crime, according to article 15 of the Criminal Code.

The second and third parts are qualified compositions, that is, it is the same act (kidnapping), but with aggravating circumstances.

The second part of article 137 of the Criminal Code provides for liability for the same act committed: against a minor; for selfish or other base motives; by prior agreement of a group of persons; repeatedly or by a dangerous repeat offender. The sanction for the second part of the article

provides for punishment in the form of imprisonment from five to ten years. Thus, this part is a serious crime.

In general, crimes against minors occupy a special place among socially dangerous acts against a person, as they pose an increased danger to society. Therefore, this circumstance is a qualifying feature in almost all crimes against the person.

Selfish or other base motives relate to the motive, that is, the subjective side. The motive in this case goes from an optional feature to a mandatory one, as indicated in the article. Motives aimed at obtaining material benefits are considered selfish. Base motives are considered, for example, revenge, envy and other circumstances.

To determine such a circumstance, as by prior agreement of a group of persons, two signs are needed: 1) the participation of two or more in the commission of a crime; 2) collusion between the perpetrators knowingly or immediately before the beginning of the crime.

According to article 32 of the Criminal Code of the Republic of Uzbekistan, repetition is recognized as the simultaneous commission of two or more crimes provided for by the same part, article, and in cases specifically specified in the Criminal Code, and by different articles of the Special Part, for none of which the person was convicted. Both completed crimes and punishable preparations or attempts at crimes, as well as crimes committed in complicity, are recognized as repeated.

A dangerous recidivism is the commission by a person of a new intentional crime identical to the one for which he was previously convicted, and in cases specifically specified in the Criminal Code, and under other articles of the Special Part.

By the identity of crimes, it is necessary to understand the commission of a new crime provided for by:

the same article of the Special Part of the Criminal Code under which the person was previously convicted (if the article provides for responsibility for the same elements of crimes);

the same part of the article of the Special Part of the Criminal Code, according to which the person was previously convicted (if the article provides for liability for different types of crimes).

The above circumstances are included in the second part of Article 137 of the Criminal Code.

Part three of article 137 of the Criminal Code provides for liability for the same action: committed by a particularly dangerous recidivist; entailed grave consequences; committed for the purpose of removing human organs and (or) tissues.

A particularly dangerous recidivism is the commission by a person of a new intentional crime, for which he is sentenced to imprisonment for a term of at least five years:

a) for a particularly serious crime if he was previously convicted of a particularly serious or twice for serious crimes and for each of them was sentenced to imprisonment for a term of at least five years;

b) for a serious crime, if he has previously been convicted twice for serious crimes or in any sequence for a serious and especially serious crime and for each of them was sentenced to imprisonment for a period of at least five years.

It should be noted that a person can be recognized as a particularly dangerous repeat offender by a court verdict.

Grave consequences should be understood, for example, causing death by negligence, suicide or attempted suicide of the victim, causing significant harm to the health of the victim and other circumstances.

CONCLUSION

Kidnapping always implies active actions. These actions may be secret, open, committed as a result of deception or abuse of trust. These actions may also be accompanied by threats, mental or physical violence. An optional object is a social relationship that is harmed in the commission of a specific crime, but, unlike the main and additional object, the optional object is not specified in the article and does not affect the qualification. When committing a kidnapping, the honor and dignity of a person may be an optional object.

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