


## THE METHOD OF COMMITTING CRIME AS NECESSARY ELEMENT OF CORPUS DELICTI

**Khudaykulov Feruzbek Khurramovich,**

Associate Professor of the Department of Criminal Law, Criminology and Anti-Corruption of Tashkent State University of Law, Doctor of Science in Law

ORCID:<https://orcid.org/0000-0002-4940-3762>

E-mail: [dr.profi114@gmail.com](mailto:dr.profi114@gmail.com)

Article Info	ABSTRACT
<p><b>Article history:</b> Received June 05, 2024 Revised June 25, 2024 Accepted July 06, 2024</p> <p><b>Keywords:</b> crime, objective side of a crime, the method of committing crime, facultative signs, necessary signs, the time, place, condition of committing crime, interrelationship.</p>	<p>The article widely uses logical, inductive, deductive, systematic, logical-legal, comparative-legal research methods. In particular, among the signs of the objective side of the crime, the method of committing the crime has its own importance, and any crime is committed in a certain way. The method of committing a crime is a form of external expression of a socially dangerous act, and in most cases, the legislator considers the method as a necessary or aggravating sign of the crime in the criminal legislation. The analysis of the articles of the Special part Criminal Code shows that the method of committing a crime is expressed by the legislator in two forms in the criminal law. The first is as a form of a socially dangerous act, while the second is considered independently. As an example of the first, articles 110, 118, 119, 164 of the Criminal Code can be given. In the disposition of these articles, words such as "torture", "killing or threatening with the use of force", "use of force", "intimidation with the use of force" represent the method of committing the crime. As an example of the latter, articles 166, 168 and 169 can be cited. At the same time, the doctrine of criminal law and existing scientific research were analyzed, and reasonable theoretical recommendations were developed in this regard. At the same time, the theoretical and practical problems related to the method of committing crime and its types were highlighted, and the results of the survey on the introduction of the norm related to the structure of the crime into the criminal legislation were reflected, and in this regard, specific proposals and recommendations were developed for improving the criminal legislation of the Republic of Uzbekistan.</p> <p>This is an open-access article under the <a href="#">CC-BY 4.0</a> license.</p> 

**Corresponding Author:**

**Khudaykulov Feruzbek Khurramovich,**

Associate Professor of the Department of Criminal Law, Criminology and Anti-Corruption of Tashkent State University of Law, Doctor of Science in Law

E-mail: [dr.profi114@gmail.com](mailto:dr.profi114@gmail.com)

## INTRODUCTION

The fight against crime in the world is gaining global importance, since any crime has its internal and external side, the external side, which is the objective side of the crime, determines the internal side of the crime and correctly qualifies the committed crime. , is also important in sentencing issues. Among the signs of the objective side of the crime, the method of committing the crime has its own importance, and any crime is committed in a certain way. The method of committing a crime is a form of external expression of a socially dangerous act, and in most cases, the legislator considers the method as a necessary or aggravating sign of the crime in the criminal legislation.

According to statistics, serious crimes in the world, in particular, more than 50% of intentional murders every year, are committed with various methods of committing crimes and firearms, where the objective aspect of the crime is a facultative sign. [1]. According to UN experts, the number of people who have died as a result of crimes in recent years is five times higher than those who died in armed military conflicts. [2]. In international documents, attention is paid to the revision of the legislation in order to correctly express the responsibility for the crime in the law, to facilitate the practice of applying the law as much as possible [3]. The above shows that the priority tasks are to improve the criminal legislation, correctly apply the norms of the Criminal Code, correctly classify crimes and ensure the imposition of a fair punishment.

In our country, great attention is being paid to the reform of criminal legislation, the improvement of the practice of applying criminal legal norms, the strengthening of the principles of justice and humanity in the activities of law enforcement and judicial bodies, and at the same time, a number of targeted measures are being implemented. In particular, "consistently continuing the policy of improving criminal, criminal-procedural and criminal executive legislation, widely introducing the principle of humanitarianism into the system of criminal punishments and their execution" the fact that it is defined as the priority directions of the development of the country's criminal law indicates that there is a need to research this area. [4].

It should be noted that in the improvement of the criminal legislation, the research and study of the method of committing the crime is of great importance, in order to solve the problems related to the in-depth scientific analysis of the norms of the criminal law and their practical application

## METHODS

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.

## RESULT AND DISCUSSION

### Discussion

The objective aspect of the crime is that the facultative nature of optional signs is determined by the fact that they have legal significance independently of all actions, and therefore, according to the general rule, they are not recognized as necessary elements of the composition of the crime. Nevertheless, in special cases, these signs can be included in the structure of a certain crime, as they are important as a necessary or qualifying sign [5, P. 256].

The first two of the criminal-legal importance of the optional features of the objective side of the crime, which are called the "triad", are among the factors that influence the qualification of the act.

In particular, the first is the composition of the crime (objective side) directly specified by the legislator in the special part of the Criminal Code and optional signs of the objective side of the crime, which appear as a necessary sign of the qualification of the act. The second is the objective part of the crime, which appears as an aggravating (qualifying) sign of responsibility for the qualification of the act directly indicated by the legislator in the aggravating parts of the specific article of the Criminal Code. .

Their designation by the legislator as a necessary sign of the crime and aggravating factor of the defendant in the norm of the criminal law has a direct effect on the qualification of the act.

As long as a situation is assessed by the legislator as a necessary sign of a crime or specified in a separate norm, qualifying the act with a norm that provides for a relatively lighter sanction leads to the denial of the signs and characteristics of the separately assessed norm and not to give a legal assessment [6, P. 77].

In existing textbooks on criminal law [7, P. 65]. it is said that the optional signs of the objective side of the crime are directly provided by the legislator in a specific norm of the criminal law and that they can be included in the structure of the crime as a necessary sign.

According to L.A.Prokhorov and M.L.Prokhorova, facultative signs of the objective side of the crime are important in criminal law. They were considered important in three places: a) a necessary sign of the composition of the crime; b) qualification mark; c) mitigating or aggravating circumstance(s) when imposing a sentence [8, P. 41].

According to M.H. Rustamboyev, they are theoretically optional. But in practice, they are important for solving and qualifying a crime. If these signs are directly specified in the law, they are considered necessary signs [9, P. 169].

R. Kabulov said that "every crime is committed in a certain place, time period, in certain circumstances, in one way or another, with specific weapons or tools. Each of the listed signs, if it is provided for in the provisions of the articles of the Special Part of the Criminal Code, appears as the main conditional sign of the composition of the crime, which requires its unequivocal identification. [10, P. 133].

M.Usmonaliyev also said, "In order to properly qualify the committed crime and bring it to justice, the investigative bodies should identify these signs, which are considered to be the signs of the objective side of the crime, correctly and in detail." [11, P. 189].

Agreeing with the opinions of the above scientists, we emphasize that if a specific article of the Criminal Code directly refers to the optional features of the objective side of the crime, they will have an effect on the qualification of the act by itself. and appears as a necessary sign of qualifying the action.

When determining the place of the optional features of the objective side in the qualification of the act, it is necessary to take into account the place, time, method and situation of the crime [12, P. 25].

The analysis of the criminal legislation shows that the optional features of the objective side of the crime are directly provided by the legislator in the majority of the articles of the Special Part of the Criminal Code as a necessary condition for the qualification of the act in the disposition of the article. In most cases, by logically analyzing a specific article of the Special part Criminal Code, it will be possible to determine that the optional features of the objective aspect of the crime are precisely intended. In particular, as an example of the time of committing a crime, Article 146 of the Criminal Code can be cited. According to him, the responsibility for the incorrect counting of votes in the election results arises only during the election.

## Results

The method of committing a crime has the highest legal significance among the optional features of the objective side. That is why, in most cases, the method of committing a crime has a special legal significance in the qualification of the act:

The analysis of the articles of the Special Criminal Code shows that the method of committing a crime is expressed by the legislator in two forms in the criminal law. The first is as a form of a socially dangerous act, while the second is considered independently. As an example of the first, articles 110, 118, 119, 164 of the Criminal Code can be given. In the disposition of these articles, words such as "torture", "killing or threatening with the use of force", "use of force", "intimidation with the use of force" represent the method of committing the crime. As an example of the latter, articles 166, 168 and 169 can be cited.

Let's give an example of both cases. For example, the defendant Sh. At around 21:00 in the afternoon, they caught I. in front of the store, tied him to the car he was driving, put a rope around his neck, took him to a carpentry workshop located in another district, beat him to death, and stole 590,000 soms belonging to him. He stole the watch and hid from the scene. I. applied to IIB. According to the conclusion of the forensic medical examination, I. was found to have received "a minor injury that caused a short-term health disturbance". The court charged Sh. with part 1 of Article 164 of the Criminal Code [13].

As can be seen from the materials of the court case, Sh. made an assault on I., put a rope around his neck, took him to a carpentry workshop, beat him and used force that was dangerous for his health. Sh. The use of violence dangerous to I.'s health by I. is a method of committing a crime as a form of a socially dangerous act. The court carefully, comprehensively and completely analyzed the circumstances that need to be proven in the case and correctly assessed the crime.

As an example of the second case, article 168 of the Criminal Code, paragraph 2. B. accused of "a, v" b. on December 21, 2018, belonging to N., citizen S. agreed to buy a black "Nexia-2" car, manufactured in 2014, registered in the name of N. for 9,800 US dollars, of which he gave 4,000 US dollars to N. and the remaining 5,800 US dollars (according to the received information, 9,503. 416 soums) in 3 days, he deceived him, and later aimed to sell the car to another person, and then B. sold this car to citizen R. for a total of 9,300 US dollars, citizen N did not fulfill his promise to . and used the money for his own needs [14].

In Fraud (Article 168 of the Criminal Code), the legislator directly indicated the method of committing the crime with the words "by deception or abuse of trust" and qualified the crime was considered a necessary sign of making.

The situation(s) of committing a crime becomes important in mitigating or aggravating circumstances, and affects the level of a socially dangerous act within the framework of one or another legal norm. [15, P. 257].

In most of the articles of the special part of the Criminal Code of the Republic of Uzbekistan, the state of committing a crime is directly provided for in the disposition of a specific article as a necessary feature in the qualification of the act. For example, when A. returned home from work around 2:00 p.m., his wife found L. playing and having sex, and, unable to control himself, hit L. on the head with an iron in his hand and killed him. ate. Tashkent regional court on criminal cases qualified A.'s act with Article 98 of the Republic of Uzbekistan. The conclusion of the forensic psychological examination confirmed that A. was in a state of physiological affect at that time [16].

As can be seen from the case files, the conclusion of the forensic psychiatric examination confirmed that A. was in a state of strong mental excitement while killing his wife L.. In the material of this case, a state of strong mental excitement, which is a condition of committing a crime, was considered a necessary sign of qualification of the act, as it was directly indicated by the legislator in the provision of Article 98 of the Criminal Code.

Due to the fact that in practice there are a number of difficulties in differentiating the state of physiological affect and strong mental excitement, strong mental excitement is recognized as a state of affect in JK. At the same time, affect is evaluated as a strong emotional excitement [17, P. 9].

Weapons of crime are things with which a socially dangerous act is committed and which the offender uses to influence the elements of social relations. Means of crime are recognized as things that make it much easier to commit a crime. The criminal-legal

importance of weapons and tools is that they often affect the qualification of crimes to the desired extent, sometimes their use can seriously aggravate the punishment applied to the guilty person [18, P. 136].

The analysis of the articles of the Special Part of the Criminal Code shows that the weapon and means of committing a crime are directly mentioned in the disposition of rare articles as a necessary sign of the qualification of the act. For example, it is directly provided by the legislator in Article 244 of the Criminal Code. According to it, the crime of mass disorder is defined as organizing mass disorder by using or threatening to use a weapon or other objects used as a weapon, as well as actively participating in mass disorder. Also, they are directly mentioned in the aggravating parts of most articles as a sign of aggravating responsibility when qualifying the act. For example, article 164, paragraph 2-q "a", article 277, paragraph 2-q "v" and paragraphs 3-q "b", article 281, paragraph 2-q "b", article 283, 2 q paragraph "b" of the Criminal Code.

In short, the optional signs of the objective side of the crime are recognized not only as necessary signs of the crime, but also as signs of aggravating responsibility for the qualification of the act.

## CONCLUSION

Based on the analysis of the method of committing the crime and its importance, it makes it possible to make the following suggestions, recommendations and conclusions:

I. Recommendations for the development of the theory of qualification of crimes:

1. When qualifying the crime, the relationship between the facultative features of the objective side of the crime and the method of committing the crime is classified as follows:

a) the relationship between the place and the method of committing the crime: Article 164 of the Criminal Code. 3-p. "v" b. (committing a crime by illegally entering a house, warehouse or other building, attacking, using force dangerous to life or health or threatening to use such force), Article 166 of the Criminal Code. 3-p. "b" b. (openly robbing someone else's property by illegally entering a house, warehouse or other room), Article 169, 2-p. "g" b. (secret robbery of another's property by illegally entering a house, warehouse or other room);

b) the relationship between the method of committing a crime and the method: Article 166 of the Criminal Code. 2 p. "a" b. (use of force that is not dangerous to life or health or open robbery of another's property by threatening to use such force);

c) the relationship of the weapon with the method of committing the crime: Article 164 of the Criminal Code. 2 p. "a" b. (using a weapon or other things that can be used as a weapon (criminal weapon), using force dangerous to life or health or threatening to use such force (method of committing a crime);

d) relationship between the means and method of committing the crime: Article 103 of the Criminal Code. 2 p. "g" b. (using telecommunication networks, the Internet



global information network (tool) to threaten, treat him mercilessly or consistently humiliate his honor and dignity (method), Article 103, paragraph 2 of the Criminal Code” b. (method of persuading, deceiving or otherwise inducing suicide in another person using telecommunication networks, the Internet global information network (tool).

The interrelationship of the optional features of the objective side of the crime, which is directly provided for in the Special Part of the Criminal Code, must be taken into account when qualifying the act, and it ensures the correct qualification of the act.

## II. Suggestions for improving the Criminal Code of the Republic of Uzbekistan:

1. Part 1 of Article 118 of the Criminal Code was proposed to be reworded as follows: "Touching honor, that is, sexual intercourse by using force or threatening to use force or using the victim's weakness."

2. It is proposed to include the following clauses in Part 2 of Article 118 of the Criminal Code:

- "d) by causing serious injury to the body using force dangerous to life or health;
- y) if committed with extreme cruelty.

3. Part 1 of Article 119 of the Criminal Code was proposed to be reworded as follows: "Satisfaction of sexual desire in an unnatural way by using violence, threatening to use violence, or using the victim's weakness."

4. It is proposed to include the following clauses in Part 2 of Article 119 of the Criminal Code:

- "d) using force that is dangerous to life or health, causing serious injury to the body;
- y) if committed with extreme cruelty.

5. It is proposed to adopt the disposition of part 3 of Article 127 of the Criminal Code in the following version:

"Enticing a minor to commit a crime by promise, deception, threat or other methods."

6. In order to use the phrase "dangerous method for the majority" given in the legal meaning of the terms in Section 8 of the Criminal Code, Article 97, Part 2, Clause "d", Article 156, Part 3, "a" of the Criminal Code” clause and Article 173, part 2, clauses “b” are proposed to be amended.

7. It is proposed to include the following clauses in Article 56 of the General Part of the Criminal Code:

- “o) using other objects that can be used as weapons;
- p) if the crime was committed using the official uniform or document of a representative of the authorities.”.

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