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THE FORENSIC CLASSIFICATION OF BANDITRY AS A CRIME

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ABSTRACT

This article is dedicated to the forensic classification of banditry as a crime, as well as the analysis of its specific elements. The author discusses the individual characteristics of the persons who commit banditry, the unique features of their victims, the places where banditry often occurs, the criminogenic situation, and the methods of committing the crime. The author also presents the opinions of scholars on the forensic classification of banditry and engages in scientific debate on this topic.

KEYWORDS

Banditry, forensic classification, crimes, element, perpetrator, victim, places where crime often occurs, methods of committing the crime, unique features of the victim.

INTRODUCTION

According to the Constitution of the Republic of Uzbekistan, an owner, at their discretion, shall possess, use and dispose of their property. The use of any property must not be harmful to the ecological environment nor shall it infringe on the rights and

legally protected interests of citizens, juridical entities and the state¹. The right to property plays an important role within an individual's rights, and its corresponding legal protection serves as an indicator of the population's economic well-being.

¹ Constitution of the Republic of Uzbekistan. Tashkent.

Адолат-2022.

<https://constitution.uz/uz/clause/index#section2>

In accordance with the European Convention for the Protection of Human Rights, individuals have the legal right to dispose of their property. Governments cannot deprive individuals of their property without justification, and other individuals have no right to do so either².

According to the reports in 2022 of the Department of Internal Affairs of Samarkand region, crimes against personal property accounted for 31.7% of all registered crimes in the region. At the provincial level, 16 criminal cases related to banditry have been filed, of which 14 cases, or 87.5%, have been sent to the appropriate trial with the indictment. The subject under analysis is highly relevant today, as the protection of property, the establishment of social relations, and the stability of individuals are crucial for both society and the state.

In this article, we highlight the features of the forensic classification of the crime of banditry, specifically focusing on elements that encompass the forensic description. In particular, in the banditry, we analyze the subject of the attack, the setting of committing a crime (place and time), as well as the methods of committing the crime, the mechanism of trace formation, information regarding the identity of both the victim and the perpetrator.

To date, scientists have not reached a unanimous consensus on the descriptive concept of criminalistics, nor is there a singular opinion regarding its structural elements.

G.A. Abdumajidov defines the forensic description of crimes as "a compilation of evidence-based

information on the crucial aspects of the types of crimes being examined, along with a system of scientific conclusions and recommendations derived from them³".

T.B.Mamatkulov and a group of scientists believe that the forensic description of crimes is understood through symptoms of forensic significance, including the type, group and method of committing a specific crime, as well as mechanism and specific circumstances reflected in the personality of the crime subject and other factors. These aspects contribute to the effective resolution of tasks related to the investigation and prevention of specific criminal acts⁴.

According to R.A. Alimova and A.N. Norboev, the concept of a forensic description should include in its composition scientific conclusions and recommendations that will be developed based on them, in addition to the most important signs of evidential significance of certain crimes⁵. This statement indicates that these authors perceive the forensic description of crimes as a comprehensive concept that encompasses both theoretical and practical aspects.

N.P. Yablokov observes that "the typical forensic description of a crime type is evident in the characteristics of elements such as type, category, the systematic scientific description of significant criminalistic features of the group and modus operandi, the mechanism and context in which they occur, and their personality. The subject and other inherent elements of the described crime type, along

² European Convention for the protection of human rights. Protocol-1 Article 1. 1950 // https://uz.zahn-info-portal.de/wiki/European_Convention_on_Human_Rights#Article_1_-_property

³ Abdumajidov G.A. Criminalistics: Textbook.- T., 2003.- P.219

⁴ Mamatkulov T.B. Criminalistics: textbook/ Academy of Internal Affairs of the Republic of Uzbekistan, 2021.- 384-P

⁵ Alimova R.A., Norboev A.N. Methods for investigating crimes: a tutorial. - T.: TDYI publishing, 2007. 12 p.

with understanding the interconnections between them and the essence of the description, contribute to the successful investigation of crimes⁶.”

S.I. Vinokurov provided a concise explanation of this concept, defining forensic description as a scientifically constructed system of typical indicators of a specific type of crime. It enables the identification of trace formation mechanisms and facilitates comprehension of the primary investigation tasks⁷. The general concept of forensic signs can be summarized in the following definition: a forensic description is a dynamic system of interconnected indicators of a crime, which are evident in the method and mechanism of the crime, as well as in the personalities of the perpetrator and the victim.

It should be noted that the subject of criminal aggression holds significant importance in the structure of forensic description, as information about it enables investigators to specify and conduct necessary search activities.

Within the elements of the crime under consideration, the subject of aggression can involve property belonging to someone, as well as human health. Property can take various forms, such as cash or securities in the currency of the Republic of Uzbekistan, bank cards belonging to foreign banks,

jewelry, coin collections, precious medals, antique items (icons, paintings, and other valuable objects), clothing, computer and household appliances, vehicles, and more.

Information describing how a crime was committed constitutes one of the most important structural elements of criminal acts. However, when it comes to defining this concept, scientists have put forward different points of view. For instance, A.N. Kolesnichenko describes the method of committing a crime as a combination of individual actions and methods employed by the subject in a certain sequence, referred to as “an expressed method of criminal behavior”⁸.

According to R.S. Belkin, “this refers to a system of actions performed by an individual, influenced by the subject and circumstances of criminal aggression, with the aim of achieving a criminal objective and connected by a unified criminal plan”⁹.

In our opinion, N.P. Yablokov provided a more accurate definition of this concept, referring to it as “an objectively and subjectively determined system of actions performed by the perpetrator before, during, and after the commission of the crime. It involves the use of criminological methods and tools to understand the nature of the criminal behavior, analyze the traces

⁶ Yablokov.N.P. Criminalistics: textbook for universities. Ed. 3rd, revised. M., 2005. P. 64 // Яблоков.Н.П.

Криминалистика: учебное пособие для вузов. Изд. 3-е, перераб. и доп. М., 2005. С. 64

⁷ Vinokurov. S.I. Forensic characteristics of the crime, its content and role in the construction of the investigation methodology. Crime investigation methodology (general provisions). M., 1976. P. 101. // Винокуров.С.И. Криминалистическая характеристика преступления, ее содержание и роль в построении методики расследования. Методика расследования преступления (общие положения). М., 1976. С. 101.

⁸ Kolesnichenko.A.N. General provisions of the methodology for investigating certain types of crimes. Kharkiv, 1965. P. 18. // Колесниченко.А.Н. Общие положения методики расследования отдельных видов преступлений. Харьков, 1965. С. 18.

⁹ Averyanova.T.V., Korukhov Yu.G., Rossinskaya E.R.; ed. Belkina R. S. Criminalistics: a textbook for universities. M., 2000. P. 66. // Аверьянова.Т.В., Корухов Ю. Г., Россинская Е. Р.; под ред. Белкина Р. С. Криминалистика: учебник для вузов. М., 2000. С. 66.

left behind, and determine the most effective approaches to solving criminal cases”¹⁰.

It should be noted that the methods used in committing banditry are generally more aggressive compared to other crimes. In this type of crime, banditry attacks often involve causing light, moderate, or severe bodily harm, as well as threats of violence that may lead to the victim's death.

Typically, thorough preparation is an integral part of the method employed in these types of crimes. This involves various preparatory measures such as identifying the target of the future aggression, devising a detailed crime plan, seeking accomplices and assigning specific roles to them, selecting the most opportune time and place, disguising one's appearance, acquiring firearms or bladed weapons, and arranging for transportation if necessary.

The highest level of preparation is often directed towards state or commercial institutions, such as currency exchange offices or cashiers' offices, with the intention of seizing valuable assets through banditry. In such cases, criminals thoroughly study the institution's operating hours, employee shifts, the movement routes of personnel, security measures and vulnerabilities, and other relevant factors. When targeting individual citizens, the criminals would investigate their lifestyle, determine the location of valuable possessions, their quantity, and other related circumstances.

Among the methods of banditry, the following can be considered:

1. Sudden assault and violence in unattended open spaces.
2. Attacks in open fields, courtyards, or at house entrances with the use or threat of violence.
3. Forceful entry into residential buildings under various pretexts or through violent means.
4. Banditry conducted within the premises of sellers, cashiers, bank employees, commercial enterprises, financial institutions, and communication offices.
5. Attacks on vehicle drivers with the intent to steal money, luggage, or valuable items.

It should be noted that the above-mentioned methods are not an exhaustive list and can vary depending on the criminogenic situation in a particular area and the individuals involved.

The circumstances surrounding the commission of a criminal act are crucial elements in the composition of the forensic description of a crime. Analyzing these circumstances enables a detailed identification of significant criminological indicators related to the crime.

The circumstances of any crime are primarily characterized by factors such as the location and time of the incident. When selecting a location for their criminal activities, perpetrators adhere to specific conditions. They consider the intended target, the time of day, and choose places that are less crowded, allowing for a quick escape from the scene and easy occupation of the victims' property. The chosen location serves as the site for executing their planned attack. For instance, the selection of apartment building entrances or elevators as attack locations can

¹⁰ Yablokov.N.P. Criminalistics: textbook for universities. P. 65. // Яблоков.Н.П. Криминалистика: учебное пособие для вузов. С. 65.

be attributed to the limited opportunities for victims to resist the perpetrator. Furthermore, these areas usually lack the presence of strangers who could potentially help the victim defend themselves, notify law enforcement authorities, or act as witnesses. This enables criminals to carry out their crimes with ease and convenience.

In today's judicial and investigative practices, typical attack locations include railway stations, bus stops, airports, intercity trains, office buildings, residential buildings, entrances to yards and houses, parks, and public transport stops, among others.

Attacks in open areas predominantly occur during nighttime. This is because these places are less populated, minimizing the chance of witnesses and reducing the likelihood of encountering resistance. However, certain locations such as "PayNet" stations, communication company offices, warehouses, and gas stations are particularly vulnerable to attacks at specific times of the day. When targeting residential buildings, criminals often choose times when occupants are absent or sleeping. Attacks can also occur during the day, shortly before lunch breaks or before the closure of institutions, financial organizations, and jewelry stores, when customer presence is minimal but there are still employees present who can access cash registers.

The mechanism of trace formation in the commission of the crimes we are considering is evident through the presence of various types of traces. These include:

- Traces of struggle at the crime scene, such as marks or signs of physical altercation. Fingerprints are frequently found on objects like door handles, keys, tables, chairs, and glass cabinets. Footprints can be observed on the

floor surface near entrance doors. Microparticles may be present on chairs, sofas, door frames, windows, seats, and seat belts in vehicles.

- Objects that carry olfactory information about the perpetrator, including personal belongings left at the scene, as well as sofas, armchairs, and vehicles that were used by the criminal.
- Items used for tying, such as tapes, ropes, or wires, which may indicate attempts to restrain or control victims.
- Firearms, bladed weapons, or other objects that were utilized as weapons during the commission of the crime.
- Traces left behind by shoes, fingers, and vehicles at the time of escape, which can provide valuable evidence for identification and investigation purposes.

It is important to note that these traces serve as crucial forensic evidence in the determination of the criminal activities and can significantly contribute to the successful investigation of the crimes in question.

The personality of the criminal is a crucial element in the content of the forensic description of a crime. Without considering information about the characteristics of the perpetrator, a thorough forensic analysis cannot be conducted. Following any criminal activity, valuable information about the criminal's socio-psychological traits, criminal experience, special knowledge and skills, gender, age, and other relevant factors can be obtained.

It is worth noting that the majority of the crimes analyzed today are predominantly committed by men. Women engage in banditry significantly less frequently, with a rate seven times lower than that of men.

Within the age spectrum, a significant portion of banditry is committed by individuals between the ages of 16 and 40. Generally, adult criminals commit fewer criminal acts than minors over a given period, but they tend to be more meticulous in their preparations. Their groups often consist of two or three people and engage in multiple consistent crimes or cause significant damage.

On the other hand, minors often exhibit spontaneous and demonstrative criminal behavior without prior planning. They tend to display aggressive and rude behavior. Their groups are typically less organized and tend to be unstable.

It is crucial to determine the specifics of the victim's behavior before, during, and after a crime in order to conduct a comprehensive and unbiased investigation of a criminal case. Without understanding the victim's actions and reactions, it becomes challenging to determine the underlying causes of the crime and the circumstances that facilitated its occurrence. Therefore, studying the identity of the victim is essential in shedding light on the nature of the crime. Furthermore, during the investigation of a criminal case, it is important to consider instances where the victim may be concealing other crimes or staging the crime for alternative reasons¹¹.

Therefore, during the investigation, it is crucial to collect information about the victim's identity, their lifestyle, acquaintances, and contacts. This category often includes vulnerable individuals such as the elderly, women, and teenagers who may not be able to

actively resist during a criminal attack. Additionally, individuals who possess significant wealth in the form of money, jewelry, and other valuables are often targeted as victims.

To accurately classify the crime under consideration, investigators must have a strong understanding of the relevant criminal legal norms. The forensic description of the analyzed crime of banditry necessitates a thorough and comprehensive examination. This is because banditry and robberies share similar elements, posing a challenge for investigators in correctly assessing the situation.

CONCLUSION

In summary, the forensic description of banditry underscores the importance of effectively investigating this type of crime, resolving any contentious issues that may arise during the investigation, and paying attention to establishing facts within the framework of the criminal case. The ultimate goal is to facilitate the investigation process, establish the guilt of the perpetrators, and ensure the innocence of those who are not involved.

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