



THE SUBJECTIVE SIDE OF THE CRIME OF INTENTIONAL HOMICIDE AND ITS SPECIFIC ASPECTS

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ABSTRACT

This article analyzes the subjective side of the crime of intentional homicide and issues related to its specific aspects, as well as the opinions of scientists in this regard.

Also, in order to distinguish the crime of intentional homicide from the crime of intentional grievous bodily harm, which caused the death of the victim, the views on the need to take into account the intent of the perpetrator, the consequences of his actions, that is, his subjective attitude towards the death of the victim, are also presented in the article.

KEYWORDS

Guilt, intent, murder, crime, punishment, responsibility, subjective side, necessary sign, social danger, feature.

INTRODUCTION

According to the criminal legislation of the Republic of Uzbekistan, a person is responsible only for his socially dangerous acts, which are proven guilty in accordance with the law. The determination of this provision in the legislation indicates that a person is held responsible only if he is guilty of a socially dangerous act.

Otherwise, there can be no grounds for prosecuting the person.

Some aspects of the subjective side of the crime of intentional homicide were studied in the works of the scientists of our republic K.R.Abdurasulova ,

A.Otajanov , F.Takhirov , M.H.Rustamboev , M.Musaev , Kh.Abzalova .

In fact, according to the theory of criminal law, guilt is a mental attitude of the criminal in the form of intent or recklessness to the socially dangerous action or inaction committed by the criminal and to its socially dangerous consequences. In the criminal law, responsibility for the actions of a person is defined, based on the fact that the person realized the social and political nature of his socially dangerous behavior, controlled it with his mind, and committed it based on his will .

Guilt is a necessary feature of all crimes. From this it can be understood that all crimes, especially murder, are committed intentionally or recklessly. We would not be wrong to say that there are no contradictions and disagreements regarding the forms of intent or carelessness in the theory of criminal law.

If a person realized the socially dangerous nature of his act, could foresee its socially dangerous consequences and wanted such consequences to occur (right intention) or consciously allowed them to occur (wrong intention), the crime is considered to have been committed intentionally (CC 21 -substance).

If a person foresaw the possibility that his actions would cause socially dangerous consequences, but had unreasonable hope that such consequences would not occur (self-belief) or could not foresee that such consequences would occur, but should have been able to see them and could (negligence)), the crime is considered to have been committed recklessly (Article 22 of the Criminal Code).

In theory and practice, there are two types of intention: known (concrete) and unknown (non-concrete).

The crime of intentional homicide that we are considering, as its name suggests, is committed in the intentional form of guilt. Manslaughter can be committed directly or perversely.

This is stated in paragraph 2 of the decision of the Plenum of the Supreme Court of the Republic of Uzbekistan "On the judicial practice of cases related to intentional homicide": "When committing the crime of intentional homicide, the perpetrator acts with the intention of depriving the victim of his life, sees the socially dangerous consequences of his act, and causes death wants to give (right intention) or consciously allows it (perverse intention)" .

Therefore, intentional homicide is committed with the right intention if the subject of the crime realized the social danger (illegality) of his act, could foresee its socially dangerous consequences, i.e. the victim's death, and wanted his death to occur, if the subject of the crime realized the social danger of his act If he realized (illegality), could foresee its socially dangerous consequences, i.e. the death of the victim, and consciously allowed his death to happen, it is committed with malicious intent.

In order to distinguish the crime of intentional homicide from the crime of intentional grievous bodily harm that caused the death of the victim, it is necessary to take into account the intent of the perpetrator, the consequences of his actions, that is, his subjective attitude towards the death of the victim.

When committing the crime of intentional homicide, the offender acts with the intention of depriving the person of life, inflicting grievous bodily harm and in the cases that caused the death of a person, his fault in relation to the death is expressed in the form of carelessness.

The mental (intellectual) state of intentional homicide is when a person is aware of the socially dangerous character of his actions or inaction and is able to see its socially dangerous consequences, that is, the death of the victim.

The voluntary state of intentional homicide is characterized by the fact that the person wants the death of the victim to occur. For example, in murder, the subject wants to take another person's life, and in the case of bodily harm, the perpetrator wants to cause severe damage to the victim's body.

It is precisely the voluntary nature that distinguishes true premeditated homicide from deviant premeditated homicide. In the case of murder with the right intention, there is a desire for the death of the victim in the actions of the perpetrator, while in the case of deviant intent, there is no desire for the death of the victim, but a conscious way, that is, the perpetrator is indifferent to the cause of the death of the victim. A culpable manslaughter does not want the victim's death to occur, but consciously allows the victim's death to occur in order to achieve another goal (is indifferent).

The decision No. 13 of the Plenum of the Supreme Court of the Republic of Uzbekistan dated September 24, 2004 "On judicial practice in cases of intentional homicide" states what should be paid attention to when determining the intent of the culprit. In particular, it states, "Determining the intent of the perpetrator is based on the totality of all the circumstances of the act, in particular, the method and weapon of the crime, the number, nature, and location of injuries (for example, injury to vital organs), the reasons for the cessation of criminal activities, as well as the behavior of the culprit and the victim before the crime was committed, their mutual relations, and the

features of the culprit's actions after the crime was committed must be taken into account. In fact, a detailed study of these cases plays an important role in determining the intent of the culprit, including whether he committed the crime with the right intention or with the wrong intention. For example, if the subject shoots or stabs the victim in the heart, then his actions are clearly intentional. Because his actions are directly aimed at the vital organ of the victim, it shows that the perpetrator has a desire to kill the victim.

When analyzing the subjective side of the crime of intentional homicide, it is necessary to study the motive and purpose of the criminal act. Because the motive and purpose of the crime is important in the correct qualification of the crime, in delimiting the crime from other types of crimes and in assigning a fair punishment.

According to M.Usmonaliev, the motive of the crime is the internal driving force (intention) that gives the person the courage to commit a crime aimed at satisfying certain demands and interests and is followed in the commission of a crime. The purpose of the crime is the mental desire of a person to achieve a certain result in the future by committing a crime.

In order to make the culprit responsible for murder, it is necessary to determine whether the crime was committed with the right intention or with the wrong intention. If the death was not caused by the wrongful act of the guilty person, he is not held responsible for the death. For example, R., B., L. are K. they touch the honor of and leave him by the river. After they left, K. he comes to the bank of the river to bathe and drowns as a result of his foot slipping into the water.

originally R., B., L. are charged as a group for defamation and manslaughter. The conviction of R., B., L. for manslaughter is incorrect due to the lack of intent and recklessness in their actions to cause the death of the victim. In this regard, the higher court canceled the part of the sentence that determined responsibility for manslaughter.

Attempted murder can be committed only with the right intention, because the perpetrator is aware of the socially dangerous nature of his act, saw the death of the victim and wanted his death, but according to the circumstances that the death was not due to the perpetrator (active resistance of the victim, other persons) -'s intervention, due to timely medical assistance to the victim, etc.) does not occur.

In the commission of this crime, the motive and purpose are of great importance from the subjective side. Motive and purpose have a direct impact on the qualification of the act.

Criminal motive is one of the optional signs of the subjective side of the crime. The criminal motive is important in the correct qualification of the act, in distinguishing the crime from other crimes and in assigning a fair punishment. Criminal motive represents the emergence of a specific goal, its direction. In some cases, the criminal motive is a necessary sign of the crime, in other cases, it is an aggravating circumstance. Criminal motive is an internal feeling that induces a person's decision and desire to commit a crime. Criminal motive is characteristic only of intentional crimes. The criminal motive is formed on the basis of jealousy, revenge, hooliganism, inter-ethnic, personal grudges, etc. Concealment of other crimes committed, taking body organs for transplantation, satisfying sexual needs,

promoting war in order to worsen international relations, and receiving uncontrollable profits can be.

We can see that crime motive is defined differently in different literatures. In particular, Rustamboev M.H. defines the motive as follows, the motive is the intention to commit certain actions, in particular, the criminal motive shows a very difficult emotional (emotional) and volitional process that takes place in the human psyche. For example, the motive gives a strong and intense desire to criminal activity, which is considered an active interest factor (stimulus) of a person. This is the motive of the crime It is a conscious or unconscious internal desire of specific needs and interests that a person relies on to commit a crime .

It can be seen from these definitions that criminal motive is the emotional stage of preparation for committing a crime. Common motives for crimes against life, including manslaughter, include revenge, jealousy, envy, hooliganism, and inter-ethnic personal grudges.

The aim of the crime is the desired result for the offender, that is, what the offender seeks by committing a socially dangerous act. The desire for it is so high that a person commits a crime. Determining the purpose of the crime of intentional homicide makes it possible to distinguish it from other content crimes. We can see this in paragraph 4 of the above-mentioned decision of the Plenum of the Supreme Court of the Republic of Uzbekistan. It states that "in order to distinguish the crime of intentional homicide from the crime of intentional grievous bodily harm that caused the death of the victim, it is necessary to take into account the intent of the perpetrator, the consequences of his actions, that is, his subjective attitude towards the death of the victim. When committing the crime of intentional murder, the guilty

person acts with the intention of depriving the person of his life, and in cases where serious injury to the body caused the death of the person, his guilt in relation to the death is expressed in the form of carelessness.

In conclusion, the motive and purpose of manslaughter crimes can be important in the qualification of these crimes. Because they are established in the legislation as a necessary sign of the structure of some crimes. For example, crimes committed with the intention of greed, national or racial enmity, as a result of hooliganism (paragraphs 97m. 2. "i - p" of the Criminal Code of the Republic of Uzbekistan) are necessary signs of intentional homicide in cases of aggravating responsibility.

Thus, if the motive answers the question of why a person committed a crime, then the goal shows why the person committed it and what result he wanted to achieve.

Also, determining the motive and purpose of committing crimes against life, determining the forms and methods of fighting against these crimes, and developing measures to prevent them, play a very important role.

The legislator divides the responsibility for the crime of intentional homicide into several categories, regardless of their level of social danger, taking into account the aggravating and mitigating circumstances of the crime.

When considering the types of intentional murder crime according to subjective signs, the following special signs and characteristics can be identified.

Intentional murder with the intention of malice (Criminal Code of the Republic of Uzbekistan, Article 97, Clause 2, Part "i") is killing with the desire to get rid

of various benefits or material actions. A qualifying feature of this crime is greed as a motive for murder.

When it comes to the question of the form of manslaughter, the subject always acts with the right intention. The culprit realizes that he cannot achieve his goal without taking the victim's life. However, in some cases, murder with the intention of greed can be committed with malicious intent, in which the perpetrator does not want the death of the victim, but realizes that the death will be indifferent to his fate.

Invasion of another person's life is committed with intent and recklessness, and the inevitability of death is considered a component of right intent.

In order to understand the composition of intent, all the circumstances when a person is killed are taken into account, including the relationship between the perpetrator and the victim before the crime is committed, the crime weapon, the location of the injuries, the behavior of the perpetrator after committing the crime, etc. The qualification of this crime takes into account the motive and purpose when committing the crime of intentional homicide.

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