

Extortion: Criminal and Legal Analysis

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Abstract: The improvement of the quality of education increases the level of education of the future generation, the progress in the field of health care greatly contributes to the increase of the level of health of the population. The fact that the legislation, which is the basis for the development of these areas, is improving year by year is pleasing. To date, many of our laws have been either amended or radically updated. Because it is a priority to adapt these laws to the rapidly developing times. As a result of changes and improvements in this legislation, many crimes are prevented.

Keywords: Protection of property, immediate main object, immediate additional object, property, possession, criminal, extortion, robbery, invasion, theft.

Introduction: In our country, measures are being implemented on a large scale from year to year to prevent crime, prevent it from causing serious harm to the rights and legitimate interests of citizens, as well as the interests of the state and society, and reduce its incidence as much as possible. A vivid example of this is the goals and objectives set out in the second direction of the Strategy of Action on Five Priority Areas for the Development of the Republic of Uzbekistan for 2017-2021, approved by the Decree of the President of the Republic of Uzbekistan Sh.M. Mirziyoyev No. PF-4947 dated February 7, 2017, "Priority Areas for Ensuring the Rule of Law and Further Reforming the Judicial and Legal System". It is clear from the priority tasks set out in this strategy that, along with preventing crimes committed in our country, it is aimed at effectively protecting citizens from these crimes. In the Republic of Uzbekistan, property is inviolable, everyone has the right to be an owner. It guarantees the inviolability and creation of equal conditions for the development of all forms of property. Property constitutes the basis of the economy. In a market economy, the inviolability of property and the guarantee of property rights are considered an important factor.

In the legal analysis of any crime, the objective and subjective characteristics of the crime are of great importance.

The legal norm establishing liability for robbery by extortion, Chapter 10 of the Special Part of the Criminal Code, defines the object of the crime of robbery as "property relations related to the possession, use and disposal of one's own property by a person falling within the scope of the property law institute of civil law" [1].

It can be concluded that if the specific object of extortion is a set of social relations in the economic sphere, then the secondary object is social relations aimed at protecting property. In addition, there are additional objects of the crime of extortion, which are described in detail below.

The subject of the crime of extortion may be: property, property rights (a receipt confirming the existence of a debt owed to the extortionist, a contract or other document, a document according to which certain property rights are transferred to the extortionist, etc.), property actions (performance of work, provision of services, etc.). The subject of the crime of extortion may only be someone else's property or a right to someone else's property. An attempt to extort property or a right to property under the actual or presumed ownership of the perpetrator by threatening the victim or his or her loved ones with force, damage, destruction or invasion of privacy, or disclosure of information that is intended to remain confidential shall not be qualified as extortion. Such actions, if the

necessary elements are present, can be qualified as acts of aggression or crimes against the person. For example, the actions of certain banks, enterprises, and private entrepreneurs, officials themselves or with the help of hired guards, attempting to return loans, advances, money for goods delivered for sale, etc., cannot be qualified as extortion.

Objective aspect of the crime of stalking:

The objective aspect of the crime is understood as the external process of committing a criminal act that causes or is likely to cause serious harm to an individual, society or the state, taking place in certain real conditions. Its significance lies in the fact that the act of criminal aggression is not constituted by the criminal aspirations of an individual, but by his real, socially dangerous behavior, expressed externally. From this it can be concluded that the objective aspect of any crime is formed by the signs that describe it from the outside, that is, the external appearance of the crime being committed. "The objective aspect of crime is a process of socially dangerous and illegal encroachment on legally protected interests, which is considered from the point of view of the consistent development of events and phenomena, starting from the criminal action (inaction) of the subject and ending with the occurrence of a criminal result" [2].

The crime of extortion, from an objective point of view, first of all involves the demand to transfer someone else's property or rights to such property to the extortionist or to perform other actions of a property nature (purchase, repayment of debt, payment of ransom). This alleged demand is always accompanied by intimidation and threats and constitutes the basis of the crime of extortion. This threat is divided into three types:

- threat of violence;
- threat of damage to or destruction of property;
- threat of dissemination of other information that could cause serious harm to the rights and legitimate interests of the victim or his/her relatives.

The threat of violence is understood as the threat of intimidation, restriction or deprivation of the freedom of the victim or his/her loved ones, hitting them, beating them, causing harm to their life and health, or threatening to deprive the victim and his/her loved ones of life. It is important to emphasize here that threats can be of any kind: oral or written, in person or through an intermediary, by telephone, etc. In this case, it is not important whether the person making the threat actually intended to carry out the threat or the level of the threat, it is enough that it seems real to the victim. It should be emphasized here that the

peculiarity of extortion is that the perpetrator does not threaten to use violence immediately, but after a certain period of time, that is, in the future. Furthermore, since the threat of force by the extortionist is not specified in the law, it can be anything, including the threat of murder. Such a threat is covered by extortion.

Threatening to damage or destroy property. This is when the extortionist threatens the victim not only with future, but also with immediate harm. This threat involves threatening the victim with the threat of damaging or destroying any property that the perpetrator has. That is, the victim must believe that if the perpetrator does not comply with the demand, this property will be damaged or completely destroyed. The value of the property is not important here, what is important is that the victim fears that this property will be damaged or destroyed. Another important feature here is that in cases where the property of the victim or his or her loved ones is actually destroyed or damaged, Article 173 of the Criminal Code of the Republic of Uzbekistan requires an additional qualification under the heading "Intentional destruction of or damage to property."

Threatening to disclose information that the victim should keep confidential. Threatening to disseminate other information that could embarrass the victim or his or her loved ones or cause serious harm to the rights or legitimate interests of the victim or his or her loved ones is another form of intimidation. Here, embarrassing information is understood as any information, the disclosure of which could harm the honor and dignity, property or other interests of the victim or his relatives. The information may be not only imaginary, but also real, but in the latter case such information must, of course, be embarrassing.

The above-mentioned threat and intimidation must have the following characteristics:

a) the threat and intimidation must be openly expressed, that is, it must be a means of intimidating the victim, breaking his will and forcing him to comply with the demands of the perpetrator;

b) the intimidation must be directed at actions to be committed in the future. The "time of action" in relation to the crime of extortion is the time immediately following the presentation of the demand for the transfer of property or the right to it. That is, the time after the extortionist has notified the victim of his demand. During this time, if the victim complies with the demands of the perpetrator, the threat may not be carried out, but if the opposite happens, there is a risk that the threat expressed by the perpetrator will be carried out.

d) the threat must be real, that is, there must be a fear that the threat will be carried out if the victim does not comply with the extortionist's demands. The nature, method, place and time of the threat, the identity of the extortionist, and his previous behavior provide evidence of the reality of the threat. In order to determine the existence of the elements of a crime, it is not important who made the threat: the extortionist himself or his accomplices.[3] To give another example, a scammer comes to a shopping mall, factory, or other (it doesn't matter) area and tells them that they need to pay a monthly fee and that all businesses in the area will do the same, and then orders them to prepare the money. In this case, the victim is not threatened in any way, or is not warned about the possible threat. But the victim knows that this person or gang takes money from all the entrepreneurs every month, and if the money is not given, they are well aware that they will be hindered in their business activities (damaging property, business premises, or generally obstructing them in any other way) and even using physical force. Therefore, the victims, who are also business entities, are forced to comply with the demands of the extortionists, even if they do not express threats.

From the above strategies, the appeal, and the goals and objectives set out in them, we can see that the goal is to improve the judicial system of our country, ensure its effective functioning, and as a result, prevent crimes and other violations, and ensure that citizens do not suffer from them. But despite these efforts, it is shocking that some types of crimes still occur. One such type of crime is extortion. This type of crime has been considered a particularly dangerous crime in most countries of the world since ancient times. Uzbekistan is no exception. Especially in today's era of technological development, this type of crime is becoming more and more common. This is also evidenced by the statistics of registered crimes. For example, in 2019 alone, 152 cases of extortion were registered, but in 2022 this figure will reach 364. This is more than twice as much as in 2019. And the vast majority of these are committed by people aged 31 and over.[4] It is clear that the crime of extortion is on the rise.

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