



CENTRAL ASIAN JOURNAL OF THEORETICAL AND APPLIED SCIENCES

Volume: 03 Issue: 10 | Oct 2022 ISSN: 2660-5317
<https://cajotas.centralasianstudies.org>

Subjective Side of Element of Criminal Composition and History of its Study

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Received 9th Aug 2022, Accepted 8th Sep 2022, Online 8th Oct 2022

Annotation: *In this article, we considered the concept of criminal composition and the history of its study. Basically, we analyzed the subjective side of the criminal structure and the opinion of scientists in the history of criminal law with today's legislation. We tried to justify our analytical approach with the main emphasis on the study of the subjective side signs. Through this article, we have analyzed the importance of various aspects of the subjective side sign and given our reasonable suggestions.*

Keywords: *crime, composition of crime, object of crime, objective side of crime, subject of crime, subjective side of crime, guilt, intention, deed.*

INTRODUCTION

Some people believe that crimes first surfaced about the same time as humans. This is due to the fact that demons are typically linked to people. However, it may be claimed that crimes began to occur when their social bonds were being formed or as they were socializing. A system to combat crime and punish crime existed even before structures associated with the protection of human rights emerged, and they mainly served the needs of the state. Nowadays, safeguarding individual interests has taken on significant legal significance. The prevention of crime and the battle against it have developed into significant governmental mechanisms in our country.

The advancement of science has affected every area of law, including criminal law. Theoreticians from throughout the world undertook research to advance the field of criminal law.

LITERATURE ANALYSIS AND METHODS

The majority of foreign literature on the history of criminal law was utilized in the preparation of this article. The methods of analysis, synthesis, literature analysis, deduction, and induction were utilized to analyze the topic of the paper.

RESULTS

As a consequence of this essay, new methods were provided and the tariffs supplied in regard to the subjective aspect of the composition of the crime as well as the composition of the crime were critically studied throughout the history of the philosophy of criminal law.

DISCUSSION

In the philosophy of criminal law, the idea of crime takes center stage. Theorists use a variety of methods to describe the idea of crime. The four components of the criminal structure that make up the idea of crime — the subject, the subjective side, the object, and the objective side — took root in the 19th century and have remained its crucial, obligatory components ever since. It's important to identify the components of this crime before talking about a person's culpability. As a foundation for prosecution, the subjective component of the crime—the existence of guilt—must also be established. First of all, historically, the ideas of convicting someone of a crime and having that person confess to it are repeated. The idea of crime was not immune to the effect of religion and other systems that establish particular social standards. As a result, we analyze crimes through their interpretation as a result. Sharia law generally stipulates that crimes may be committed willfully or negligently. For instance, "Hidaya" by B. Marghinani identifies five different sorts of murder.

1. "Deliberate killing";
2. Premeditated killing;
3. unintentional (careless) killing
4. homicide by accident (a reckless form of carelessness);
5. As a result of murder [1, P.625].

It appears that guilt is the foundation of crime. Only guilt eliminates the necessity to identify the other components of the crime. We can see that the notion of crime is primarily constructed on the foundation of the sign of the subjective side and holds the primary key place in Islamic law. The idea of "criminal structure"—also known as the real condition of the crime—was originally used in the field of crime and punishment by A. Freibach, who is regarded as the creator of the theory of criminal structure. The basis for this idea, according to the theory of substantive criminal law, is "the collection of signals of human conduct or events included in the legal notion of a given type of illegal act-the legal status of the crime (corpus delicti)" [2, P.78-79].

This strategy essentially places the idea of criminal structure in the driver's seat. At the same time, it is clear that A. Freybach regarded the crime's objective foundation as its main component. He contends that committing an illegal act, whether directly or negligently, is a crime. This indicates that he was unconcerned about the subjective side's indication. The creation of the contemporary criminal system is said to have been influenced by the classical views of I. Kant and F. Hegel on the philosophy of law. These concepts serve as the foundation for the separation of Hegelian and Kantian perspectives on the nature of crime into two categories. Based on Kant's theories, German scientists added the external indicators of crime, in particular the indicators of the objective side that represent the criminal conduct (activity or inaction) of the criminal. In this instance, the subjective aspect of the criminal structure and the subject-related components were overlooked and disregarded as essential components of the crime structure [3, P.106]. According to our assessment, each component of the crime's structure has equal legal standing, so it would be incorrect to give any one of them a lower priority or a different location. The notion of criminal structure was approached by A. Feuerbach, who was trained on the basis of Kant's philosophy, exclusively in terms of the signals of the objective side and did not take into account the

indicators of the subjective side in the structure of the crime. The subjective party only sometimes included guilt (intention), which is seen as an essential indicator, in the offense [4, P.4]. The subjective side's indication is not just confined to guilty, therefore it is clear that the criminal law students of this era were unable to completely convey the nature of the crime.

Feuerbach's usage of the phrase "thatbestand," which refers to the elements of the crime, subsequently came to signify that, in addition to the indications of the objective side, the signs of the subjective side should also be taken into account. Because of this, the identity of the perpetrator will not be concealed without the subjective component of the crime structure. While the subjective side depicts the presence of the offender, the objective side portrays the actuality of the crime. When a crime happens, our system of crime and punishment is put into place on one side. If we make sure that the mechanism is complete, we must then put the mechanism of punishment into place, at which point it is important to establish the subjective side. [5, P.242].

Feuerbach's followers have defined the concept of the composition of the crime as consisting of both objective and subjective elements in response to his contradictory views on the subject (on the one hand, the de jure exclusion of subjective elements in the composition of the crime, and on the other hand, their de facto inclusion in some circumstances). created a complex, leading them to believe that it is the only factor that qualifies someone for criminal culpability. The necessity to research guilt and its manifestations in crime stems from this idea itself. [6, P.106]. We have now started studying the subjective elements of the criminal structure, which are essential for the operation of the criminal justice system, using this methodology. The subjective signals are crucial in determining the penalty as a result. One of Hegel's philosophers, A.F.Berner, asserted that the structure of a crime consisted of four components: the crime's object, its objective side, its subjective side, and its subject [7, P.463, 467]. We can see that Hegel's philosophy academics have examined every component of the criminal system, and we may concur with their conclusions. The objective side represents the external side of the offense, while the subjective side represents the criminal will, according to M. Buri, one of the successors of the German criminologists, who focuses on the subjective and objective sides of the composition of the crime in completed crimes [8, P.55].

In my view, there is one factor to which we should pay close attention. It should be kept in mind that the components of the criminal structure may be found not only in finished crimes but also in their planning and execution. N. Ratovsky provides a comprehensive strategy in this area. In his dissertation study on attempted crimes, he concentrates on the objective and subjective sides of the crime structure, which are regarded as two aspects of the crime structure, and he characterizes them as the expression of evil will in the outside world [9, P.18]. When discussing the factors that make up a crime, Kistyakovskiy advanced the theory that there are a number of "major necessary" elements, and the lack of any one of these elements renders the commission of the act inadmissible as a crime. The author separated the criminal organization into these four parts:

The following four distinctions are made:

1. "A person (entity) who committed a crime,"
2. "object or subject"
3. "The internal mental attitude of the person who committed a crime," and
4. "deed and its repercussions or exterior acts of the subject and its consequences" [10, P.265].

We might claim that this strategy was a more thorough approach to the era's philosophy of criminal law. Contradictions with the second object or topic are conceivable. This is necessary because the crime's object is a component that must always be present. The object must be present for the subject to exist,

even if it is not a required indication. Subject and object are both required elements, with the latter being optional. P.P. Pustoroslev said in his lectures on criminal law that the essential requirement for classifying an offense as a crime is the simultaneous presence of all the elements and symptoms that constitute a crime. The three essential signs are the total of the common signs:

- 1) criminal organizer or subject
- 2) an object or a criminal
- 3) constitutes a criminal act. According to him, "signs depicting one type of crime or comparable crimes" make up the collection of unique signs [11, P.199].

What makes Pustoroslev's explanation special and significant is the requirement that all of the components of the criminal enterprise exist simultaneously. This component has not yet been included in thoughts regarding how the crime was put together. According to L.S. Belogrits, Kotlyarevsky, N.D. Sergeev, and I. Ya. Foyntskolar's criminal law textbook, the composition of the crime (*corpus delicti*) is a group of indications that express the outward and internal aspects of the idea of "crime." They also distinguished between the crime's general and unique characteristics. Common signs were defined as "if there is a collection of signs that are comparable and serve to ensure the existence of the crime in practice"; special signs were defined as "a set of indications that are characteristic of particular types of crimes and serve to separate crimes from one another." The following characteristics of the criminal structure are listed by the authors: 1) subject of crime; 2) object of crime; and 3) including the criminal act and its consequences [12, P.43]. In our opinion, such an approach is not a complete idea. Because of this, the presence of general signs of the criminal structure requires the clarification of special signs.

CONCLUSION

Based on the writers' opinions mentioned above, we would like to emphasize one more particular technique. The following are general (required) indicators of the nature of the crime: a social attitude, socially harmful conduct, a crime, a physical person, mental maturity, and the legally defined age of criminal responsibility. Special (optional) elements of the crime structure include: the victim of the crime; the socially dangerous consequence; the causal link between the socially dangerous act and the socially dangerous consequence; the time, place, and manner in which the crime was committed; as well as the means or weapon used to commit the crime. Naturally, this rule is not rigorous, but the fact that these indicators are unique and essential is based on the standards set out in criminal law, and occasionally it may be regarded as an essential sign. This circumstance is connected to the peculiarities and character of the crime.

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