

Summary

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Institute or Higher school: Law University.

Department of criminal law disciplines and forensic expertise

The subject of the final qualifying work: "Subject of crime in Russian criminal law".

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The relevance of the research topic. In modern conditions of development of the Russian state, it is impossible to solve the problems of fighting crime and strengthening the rule of law without conducting new theoretical research in the field of criminal law.

However, against the background of significant progress in the study of theoretical and methodological issues of crime, criminal responsibility and punishment, the achievements in the study of the subject of crime are not so impressive.

The choice of the topic of the thesis is primarily due to the lack of fundamental comprehensive research in this area, and the analysis of legal and other literature shows that insufficient attention is still paid to the theoretical problems of the subject of crime in criminal law. As A. N. traynin rightly noted, very little attention was paid to the problem of the subject of crime, and the very position of the subject in criminal law was and remains unenlightened. At the same time, the doctrine of the composition of a crime can in no way absorb or dissolve the doctrine of the subject of a crime.

The subject of a crime is a rather complex and multifaceted concept that requires modern further study and clarification. A special place in the doctrine of the subject of crime is occupied by the study of its features, which are most closely related to the issues of criminal liability in relation to persons who have committed a socially dangerous act. Therefore, the problems of age and sanity of the subject of the crime, taking into account the fundamental changes in the current criminal legislation and the practice of its application, dictate the urgent need for their comprehensive study by legal scholars.

The relevance of the topic of the thesis is also in the existing difficulties that occur in judicial and investigative practice when solving issues of criminal responsibility, when a socially dangerous act is committed by a state of insanity, by persons with mental abnormalities that do not exclude sanity, or minors who have a lag in mental development that is not associated with a mental disorder. Certain difficulties also arise in practice in connection with the prosecution of persons who have committed a crime while intoxicated, especially when it comes to narcotic and similar conditions caused by the use of intoxicating substances.

Often, in practice, there are difficulties in qualifying crimes with a special subject. Therefore, the establishment of signs of a special subject of the crime requires further study and theoretical justification.

Law enforcement agencies also need other scientific developments and recommendations related to the subject of the crime, which contribute to the correct application of the criminal law. In turn, the analysis of judicial and investigative practice makes it possible to identify imperfections in the current criminal legislation and develop practical recommendations for its improvement and more effective application by law enforcement agencies.

The study of the subject of the crime, taking into account modern realities, allows us to consider other aspects that are not sufficiently sanctified in the legal literature. Among them, we should mention the problem of criminal liability of legal entities, the differentiation of the concepts of "subject of crime" and "personality of the criminal", etc.

The complexity and multi-aspect nature of not all these problems and their close connection with the practical activities of law enforcement agencies allow us to say with sufficient certainty that the study of the subject of crime is an important direction in the theory of criminal law, the relevance of which is dictated by life itself.

Degree of scientific development.

Criminal law problems defined by the topic of the thesis require in-depth theoretical development and practical solutions to many issues related to the subject of the crime. In turn, the lack of theoretical and methodological justification and systematic analysis of the main aspects of the doctrine of the subject of crime did not allow us to study it in conjunction with other Sciences and identify the most significant approaches in criminal law research. And, despite the importance and relevance of the research topic, it is still fragmentary in domestic and foreign criminal law.

General theoretical questions about the subject of crime in Russian criminal law were covered by such well-known Russian criminologists as V. V. Esipov, L. E. Vladimirov, S. V. Poznyshev, N. D. Sergeevsky, V. D. Spasovich, N. S. Tagantsev.

In the Soviet period and are currently in the decision of questions of General theory and methodology of studying of the subject of crime has made a great contribution: G. N. Borzenkov, I. M. Brainin, V. A. Vladimirov, B. V. Volzhenkin, A. N. Ignatov, N. G. Ivanov, I. I. Karpets, V. E. Kvashis, V. N. Kudryavtsev, N. F. Kuznetsov, A. M. Lazarev, G. A. Levitsky, N. With. Lakina, V. S. Orlov, A. A. Piontkovsky, S. Rashkovsky, D. V. Rivman, A. N. Traynin, etc.

The problem of sanity and insanity and "diminished responsibility" in criminal law, researched legal scholars and psychiatrists: Yu. M. Antonyan, Y. S. Bogomyakov, S. V. Borodin, V. H. Kandinsky, D. R. Luntz, R. I. Mikheev, G. V. Nazarenko, B. A. protchenko, V. P. Serbskiy, S. I., Tikhenko V. S. Trukhtanov, and I. K. Shahramanyan etc.

Research on a special subject of the crime was conducted by R. Orymbaev, V. V. Ustimenko, and others.

The practice of applying criminal legislation has shown that at present a number of criminal law norms regulating criminal liability in relation to persons who are the subject of a crime need to be revised and clarified. However, there is still not enough in-depth research in this area. A similar pattern is observed when a crime is committed by a person who is in a state of narcotic or toxic intoxication.

Questions concerning persons who have committed an offense in a state of insanity and minors with signs of mental retardation that are not related to a mental disorder also require additional theoretical justification, when it should be said that there is no subject of the crime that has the signs that are provided for in the law.

The subject of crime in criminal law of Russia is devoted to some theses, such as: "the Subject of Crime in criminal law of Russia" by V. I. Zhukovsky, defended in 2002, "Special subject of crime and its significance in the criminal law" V. Tarasova, defended in 2001, "the Subject of crime: history, theory and practice" V. G. Pavlov, defended in 2000, "the Subject of crime in criminal Parva of the Russian Federation and foreign countries: comparative legal analysis", E. G. Kolegov, defended in 2000.

In recent years, the theoretical problems of studying the special subject of crime, which judicial and investigative practice so needs to solve, have also remained out of sight.

In the theory of criminal law, there is no integral teaching about the subject of crime, the relevance and practical significance of which would not cause doubts, and the degree of its development leaves much to be desired.

The object of research in this paper is social relations that regulate the definition of the subject of crime and all related relations and institutions of the criminal legislation of the Russian Federation.

The subject of the research is the norms of criminal law regulating the procedure for bringing a special subject to criminal responsibility, including complicity, scientific research on the issues under consideration and materials of judicial practice

The purpose of this work is to study the current criminal legislation of the Russian Federation and scientific works Russian scientists concerning the subject of the crime and the practice of its application with the development of specific proposals for their improvement.

To achieve this goal, the following tasks were defined:

1. to Consider the subject of the crime in the historical and legal aspect by analyzing the domestic criminal legislation.
2. To study the concept of the subject of crime in the criminal legislation of Russia;
3. Describe the main features of the subject of the crime in the criminal legislation of Russia;
4. Analyze the concept and individual features of a special subject of crimes in the current Russian criminal legislation;
5. Consider the issues of qualification of crimes with a special subject;
6. Research issues related to the criminal liability of legal entities;
7. Formulate scientifically based conclusions, suggestions and recommendations for improving criminal legislation and judicial investigative practice.

The theoretical basis of the research is the norms of Russian and international legislation, as well as monographs, textbooks and publications of leading legal scientists: G. N. Borzenkov, Ya. m. Brainin, V. A. Vladimirov.

The methodological basis of the research is General scientific methods (analysis, synthesis, generalization and analogy) and methods of private scientific knowledge (formal-logical, historical - legal, comparative-historical, formal - legal, system and complex analysis).

Empirical base of the study was the Constitution of the Russian Federation, criminal code of the Russian Federation, the Criminal procedure code of the Russian Federation, decrees of the Plenum of the Supreme court of the RSFSR, USSR, Russia, statistical data on the state of crime in the Russian Federation, published on the official website of the Ministry of internal Affairs of the Russian Federation.

The theoretical significance of the work lies in the fact that the study findings will substantiate and explain in an integrated fashion to specific problems associated with the object and subject of research.