

Summary

The year: 2020.

Specialty / field of study (code and full name): 40.04.01-Law

Level of study: master's degree.

Institute or Higher school: Law University.

Department of criminal law disciplines and forensic expertise

The subject of the final qualifying work: "Criminal law and criminological characteristics of theft committed with violence ".

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The relevance of the research topic.The development of the Russian Federation as a rule of law state, the priority of universal values and their consolidation in the legislation objectively determine new social and legal approaches to the problems of crime control and the fight against it.

Over the past years, cardinal transformations have been carried out in this direction, there has been an almost continuous reform of the legal sphere, aimed at strengthening the rule of law, strengthening the fight against crime, and improving the quality of work of law enforcement agencies. Measures for state control over crime in the state are becoming more and more systemic.

At the same time, along with the positive transformations carried out in the field of lawmaking, law and order and criminal justice, the situation in the field of criminal law combating crime remains extremely unstable.

Statistics show that in the total number of recorded crimes, self-serving and violent crimes against property have a significant share. Robberies and robberies directly affect the most important areas of human life.

Violent robbery and robbery are dangerous forms of theft. They end up encroaching on two objects - ownership and health or human life. However, the practice of applying the criminal law rules governing the responsibility for committing these socially dangerous acts is not free from drawbacks that complicate both the understanding of the meaning of the criminal law prohibition stipulated by them and the correct qualification of the actions committed.

In terms of the content of violence, and even more so in the form of its implementation, these crimes began to differ significantly in their increased social danger from most crimes committed earlier. In most cases, they are based on a clear mercenary intent to achieve which various forms of violence are increasingly being used.

The above circumstances make it particularly relevant to conduct a comprehensive study of robberies and robberies in the system of criminal violence.

The purpose of the work:It is based on the study of experience in combating violent theft of someone else's property, statistics, theoretical research and collected empirical material, to formulate proposals for improving the criminal law and practice of its application in the field of criminal law combating theft of someone else's property associated with violence.

Objectives: identify common signs of theft; to determine the essence of violence as a way of committing the theft of another's property; to analyze the objective and subjective signs of acts committed with the use of violence; consider the qualifications of the investigated forms of theft;

reflect the criminological characteristics of violent theft; to analyze the general social and special criminological warning of violent theft.

Theoretical and practical significance of the research:

This work, as a generalized criminal law and criminological study of violence used in the theft of another's property, systematizes existing knowledge about the subject, deepens and expands them, identifies problems and develops directions for further scientific research in the field of combating violent attacks on other people's property. The recommendations contained in the work are of benefit to the practical activities of law enforcement officials in the qualification of violent theft of another's property.

Results of the study:

1. Violence should be recognized as unlawful, willful, impact by one person on another, contrary to his will, which causes or creates a threat of harm to the interests protected by criminal law.
2. The object of property crimes can be not only property, but also relations of ownership of property, therefore, relations arising from the distribution and redistribution of material goods that entail grounds for the right to use, own, or dispose of property should be considered a typical object of crimes against property;
3. In determining the degree of danger of mental violence to the health of the victim, one should take into account the totality of such signs as the intensity of the offender's actions, the way the threat is expressed, the criminal's subjective understanding of the possibility of using the threat expressed in action, and the victim's subjective perception of the reality of the threat. With this in mind, making a distinction between violence by the nature of the harm caused, one should proceed from the consequences that arose as a result of its use.
4. Violent theft of another's property is, in a sense, an indicator of the development of society, its socio-economic level and the state of the spiritual and moral sphere;
5. The effectiveness of the prevention of a group of crimes by measures of a general social character largely depends on the complex and integrated impact of socio-economic, political, moral and psychological measures. The criterion for effective preventive activity in a state of crime in general, and mercenary-violent in particular, is, in our opinion, on the one hand, active actions on the part of society, and on the other, political desire and will, which in the conditions of the modern development of civilization can be achieved only for due to the maximum democratization of state power institutions and the political regime. In the prevention of violent theft of another's property, attention should first be given to objects of abuse.
6. When committing the theft of another's property with the use of violence, it is possible to distinguish two subtypes of criminals. The first subtype includes persons who, when taking possession of another's property, are focused exclusively on the theft of another's property, in which case violence is an auxiliary means for them to achieve a mercenary goal. The second subtype carries a great social danger, since it is characterized by an orientation toward the use of brute physical force. In this subtype, the propensity for profit is not always prevailing. A certain part of such persons commits a crime motivated by the use of violence, and theft of property is secondary. In accordance with these circumstances, preventive measures should be chosen.

Recommendations

- Based on the fact that the murder of the victim in the theft of another's property goes beyond both violent robbery and robbery, considering life as an additional object is erroneous. In the dispositions of paragraph "g" part 2 of article 161 of the Criminal Code of the Russian Federation (forced robbery) and part 1 of article 162 of the Criminal Code of the Russian

Federation (robbery), it is more expedient to apply the wording “with the use of violence that is not dangerous (dangerous) to health”.

- Assault and violence, in relation to the composition of robbery, are considered as a way to achieve a criminal goal. At the same time, the main and constant sign characterizing the objective side of robbery and violent robbery is always the violence applied to the victim in order to steal his property. The attack does not always act as an independent and permanent sign of robbery. Therefore, the attribution of the robbery to crimes that are considered completed from the moment of the attack is unreasonable and creates many difficulties in theory and practice. Therefore, it is inappropriate to refer to it in the disposition of part 1 of article 162 of the Criminal Code of the Russian Federation.

- When qualifying violent embezzlement of someone else’s property, two-object crimes should be abandoned, firstly, it will simplify the process of qualifying embezzlement and violence that accompanies theft, and secondly, the imposition of punishment on the totality of crimes will fully correspond to the nature and degree of public danger of the crime committed.

- Since the legislative interpretation of the forms of guilt is focused on crimes with material elements, then, at the moment, the use in criminal law of compositions in which the stage of the completed crime occurs at the time of the attack leads to difficulties in applying the criminal law to persons who committed the crime . In this case, it is quite logical, in our opinion, to isolate several crimes with material elements qualified under the rules of the aggregate of crimes from such a crime as robbery.

- Leaving the practice of determining violence by the nature of the harm done, we thereby change the rules for the qualification of theft with violence. This will allow the authorities conducting the criminal process and the courts, firstly, to more accurately approach the issues of qualification of the considered group of crimes, and secondly, to impose a punishment that corresponds to the degree and nature of the public danger of the crimes committed.