

Historical Review of Robbery

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Abstract

The subject of the research topic is of a serious criminal offense such as robbery. The present paper investigates robbery as one of the most dangerous forms of seizure of other's property accompanied by using violence or threat of violence which endangers life or health. The research studies whether robbery is properly attributed to property crimes when robbery is directly related to life or health-threatening violence. The major subject of the research is to make fundamental criminal analysis of robbery as one of the most severe and frequently committed crime; also, to identify its place in the Criminal Code on the basis of comparing it with premeditated murder motivated by self-interest. The research gives historical review of robbery considering the European practice and aims to contribute to improvement of the legislation of Georgia.

Keywords: Robbery, theft, violence, threat, legislation

Introduction

The presented work discusses the historical stages of robbery as a crime given in the ancient and current sources of Georgian law; how the gravity of the committed crime was perceived and what sanctions were provided for criminal action in different periods in Georgian legislation, what criteria were used to determine its place in the Criminal Code.

To analyze the concept of robbery comparative research method is used in the work. The examples of different countries' criminal legislation help to better understand the essence of robbery. It clearly demonstrates advantages and flaws of the current Georgian legislation.

History of Georgian law originates from ancient times and its study shows that criminal dispositions described in Georgian legal documents preceded the time when they were drafted and the committed acts were properly qualified.

Based on historical resources, Ivane Javakhishvili stated in his works that criminals who robbed and captured innocent people for self-interest were qualified as "plunderers" and "brigands" and the act of commitment of

these crimes – as “to plunder” and “to maraud”; a victim was called “an affected party”. It is worth mentioning that the author discusses these acts in the chapter dedicated to crimes against human life. It is noteworthy to admit that in Giorgi Brtskinvale’s “Dzeglisdeba” (a book of Georgian law, XIV c.) the terms “mobarva” (theft) and “samekobro saqme” (plundering) were the same and they broader meaning than the word “theft”.

In patrimonial society of old Georgia, plundering, theft and raid were considered shameful and disgraceful when committed only within the same patrimonial community. If the same crimes (including murdering) were committed against other patrimonial community, it was regarded as deeds of valor. In some cases people even praised such “bravery” in their poems. Later, when the patrimonial system collapsed, such acts were already called “felony”, though the same action directed to dwellers of neighboring countries was not considered as a crime. Modern educated nations condemned the remnants of this wildness and “heroes” became “anti-heroes”.

Strict criminal policy carried out by Georgian kings had positive outcomes. Public life in XII century Georgia was quiet as there practically was no theft and banditry. King Tamar’s historian notes that in that time there were no victims or plunderers and thieves. It was the result of strict penalties established by King Giorgi III at the legislative assembly. It should be noted that while King Tamar’s reign penalty for all kinds of crime was reduced and only plunderers were judged with harsh penalty.

The legislative reform was conducted in the 20s of XX century; as a result the first two codes of the Soviet era (1922 and 1928) were drawn up. According to the Article 191 of the Criminal Code of 1922, robbery was assaulting a person publicly for the purpose of encroaching on property that was accompanied by violence which posed a threat to a victim's injury or death. According to the Article 181 of the Criminal Code of 1928, robbery was assaulting a person publicly for the purpose of encroaching on property that was accompanied by the act of violence threatening a victim’s life and health or resulting in a victim’s death;

- The same act if it is committed for the first or second time and resulted in death or heavy injury;
- Armed robbery.

In the Criminal Code of the Republic of Georgia of 1960 two kinds of robbery were considered: 1) Robbery committed for the purpose of seizing state or public property which is accompanied by using violence or threat of violence which endangers life or health and which is given in the chapter dedicated to crimes committed against state and public property (the Article 96). 2) Robbery committed for the purpose of seizing citizens’ property which is accompanied by a life or health-threatening violence or

threat of use of such violence and which is given in the chapter dedicated to crimes committed against private property (the Article 152).

Considering that the Criminal Code was drawn up according to the values of primarily protectable issues related to citizens' welfare, the Criminal Code of the Republic of Georgia of 1960 clearly depicts the priorities of the system of the time: state or public property protection was more important than a person's life, health, freedom and dignity. Protection of citizens' political and labor rights was more important than protection of their private property.

According to the current Criminal Code of Georgia (enforced on July 22, 1999), robbery is stated among economic crimes and is given in the chapter dedicated to crimes committed against property. Under the Article of the Criminal Code robbery is an assault for unlawfully appropriating another person's movable property using violence or threat of violence which endangers life or health.

The analysis of legislations of different counties is also interesting regarding the issue of robbery. For instance, in the United States of America, "The Uniform Crime Reports" defines robbery as "seizure of property that is under supervision, custody or control of an individual or individuals or intention of unlawful appropriation of something valuable using violence or threat of violence or/and intimidation of a victim". In the report of "Bureau of Justice Statistic" (1992), robbery is defined as "unlawful appropriation of something valuable using violence or threat of violence".

According to the paragraph 211 of California Criminal Code, robbery is seizure of other's property using violence or intimidation of victim in his/her presence and against his/her will.

According to Louisiana law on aggravated robbery, robbery is unlawful appropriation of other's property or something valuable inflicting bodily injury (serious bodily injury). According to the same law, "serious bodily injury" is when an injury causes extreme physical pain, obvious body distortion, loss of function of any organ or a real risk of life.

According to Kentucky Criminal Code, there are two categories of robbery: I. (1) A person shall be deemed guilty of committing a robbery of the first category if he/she used violence or threats of physical violence while committing a crime - robbery (misappropriation of property) and: (a) he/she caused physical injury of any person who did not participate in the crime; (b) he/she was armed with a life-threatening weapon; or (c) he/she used or threatened to use a life-threatening weapon against a person who did not participate in the crime. II. The second category of crime: (1) A person shall be deemed guilty of committing a robbery of the second category if he/she used violence or threats of physical violence while committing a robbery.

The German Criminal Code is generally familiar of robbery (Raub) category which includes robbery, aggravated robbery, robbery with deadly consequences, armed robbery, armed extortion etc. The Article 249 of the German Criminal Code states - "those who use violence or threat of violence for the purpose of appropriation of others' property or for the purpose of disposal of property to others are sentenced to no less than one year of imprisonment. The size of penalty increases according to the aggravating circumstances".

In some of the states of the US, robbery that is committed in an unwatchful manner and unintentionally results in deadly consequences belongs to the category of crimes against life and can be considered as a murder.

"Armed robbery" is a case when a perpetrator uses violence against the person or threatens him/her with death in order to maintain the stolen property.

According to the Criminal Code of Germany, crime is qualified as extortion when it is committed by a person who violates or threatens to violate another person to commit a crime and this person unconditionally agrees to perform or not to perform any action which leads to infliction of physical or property damage to a victim or any other person for the purpose of personal benefit. Armed extortion is an action when a person uses violence or threat of violence and the action results in immediate death of a victim.

Analysis of the norms mentioned above shows that the category of robbery in the German legislation is more narrowly defined than in the American legislation. Robbery implies active actions from the side of a perpetrator. If the disposal of property takes place under the threat of a loaded gun held to the head of a victim, the crime is classified as "armed extortion". In the United States all cases of "armed extortion" are considered as robbery.

Some of the articles depicting crimes against property in the Criminal Code of Germany indicate that attempt of misappropriation (appropriation) of other people's property is worth of punishment, though the article does not define the size of punishment. Thus, unlike the Georgian legislation Criminal code of Germany does not exclude punishment for an attempt of misappropriation (appropriation) of other people's property.

Conclusion

Analyzing robbery as statistically one of the most severe and frequent crimes from ancient times up to the present, gives us a chance to make necessary decisions for the further improvement of the Georgian legislation. The value of the work increases when it comes to identifying the place of

robbery in the Criminal Code of Georgia. Considering contemporary values, the work gives important cues that will help to place robbery in the chapter depicting crimes against human life and not in the chapter depicting crimes against property. Minding disposition of robbery and priority of human life safety, the study cannot be considered insignificant. Any kind of research starts with analysis of the history exactly what was done in this case.

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