

## THE CONCEPT, FORMS AND TYPES OF SINGLE CRIME

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### ABSTRACT

In this article, the author analyzed the concept of single crime, positions expressed in the legal literature, its features, the role of single crime in theory and practice of Criminal law. The theories of authors are compared with each other and the author gave its own concept of a single crime. At the end of the article, appropriate conclusions were drawn.

**Keywords:** a single crime, continuing crime, ongoing crime, a concept, single act, total crimes, objective criteria, subjective criteria.

### INTRODUCTION

The initial point of research on persistent and far-reaching crimes is, first of all, the coverage of a single criminal institution.

Despite the fact that the single criminal institute has been sufficiently researched by criminal law theorists, a specific name for this concept has not yet been developed.

For Example, N.S. In his works, Tagansev used the concepts of "single crime", "separate crime"<sup>1</sup>. N.D.Sergeevsky dealt with issues related to single crime under the common name "single act"<sup>2</sup>.

S.K.Gogel also called his work "the only act in criminal law"<sup>3</sup>. S.V.Poznyshev introduced the concept of "single criminal act" into use, which he calls a paragraph in his textbook on the general part of criminal law<sup>4</sup>. E.Y.Nemirovsky refers to the entire chapter of his textbook as "the only crime", contrasting it with the concept of "total crimes" in the chapter title<sup>5</sup>. N.D.Durmanov examines both concepts in one paragraph of his famous work and calls it "the only act and the only crime"<sup>6</sup>. N.F.Kuznetsova<sup>7</sup> and A.M.Yakovlev<sup>8</sup> for the first time" single crime contrasted with the concept of "a number of crimes".

A.A.Herzenzon calls this group of crimes "the only one". In addition, he puts the only crime against complex crimes<sup>9</sup>. V.P.Malkov, initially works with the concept of "separate crime",

<sup>1</sup> Таганцев Н.С. Русское уголовное право. Лекции. Часть общая. 2-й том. М.: Наука, 1994. С. 277 – 280.

<sup>2</sup> Сергеевский Н.Д. Русское уголовное право. Пособие к лекциям. Часть общая. Изд. 2-ое. Спб., 1890.С. 335.

<sup>3</sup> См. также его: О значении причинной связи в уголовном праве. Часть 1. Ярославль, 1880. С. 151-169.

<sup>4</sup> Познышев С.В. Учебник уголовного права. Очеркосновых начал общей и особенной части науки уголовного права. I. Общая часть. М.: Юрид. изд-во НКЮ, 1923. С. 271 (§ 258).

<sup>5</sup> Проф. Э.Я. Немировский. Советское уголовное право. Ч.Общая и Особенная. Одесса, 1924. С. 138-143(глава XIV-я).

<sup>6</sup> Дурманов Н.Д. Понятие преступления. М.-Л.: Изд-во АН СССР, 1948. С. 62

<sup>7</sup> Кузнецова Н.Ф. Значение преступных последствий для уголовной ответственности. М.: Госюриздат, 1958.С. 77.

<sup>8</sup> Яковлев А.М. Совокупность преступлений по советскому уголовному праву. М.: Госюриздат, 1960. С. 17.

<sup>9</sup> Герцензон А.А. Уголовное право. Часть Общая. М.1948. С. 440.

calling it "the only crime" in parentheses<sup>10</sup>. Later, it also uses the concept of "single crime"<sup>11</sup>. V.A.Vladimirov uses the concept of "single crime", but in parentheses refers to it as "single crime", while using an alternative combination of "or"<sup>12</sup>. A.A.Piontkovsky considers the entire group of crimes under the common name "single crime" and puts it against the concept of the total of crimes<sup>13</sup>. M. Usmanaliyev and M.X.Rustamboev, Kh.Ochilov's textbooks used the concept of "separate crime", citing its types and forms. M.X. Jiyanov used the concept of "single crime" in his monograph.

In criminal law theory, single action has several meanings. First, a single act legally corresponds to a single crime, and in this sense, a single crime is understood to mean the uniqueness of an individual's bodily action. Secondly, one act is often present even in the composition of a number of crimes. An example of this is the total of ideal crimes in which the subject carries out the composition of several crimes with one physical act. In many cases, the concept of a single crime consists of a separate, sometimes completely independent, sum of the objective and subjective sides of socially dangerous actions, for example, the crime of touching a non-person consists of the use of violence, intimidation and acts of non-violence, robbery - assault and violence; bringing to the level of self-murder-an absolute humiliation of the personal dignity of the victim. It follows from this that a single crime is not always made up of a single act.

It is worth saying that several actions aimed at the implementation of one criminal plan have the meaning of one completed action with one criminal result. If, for example, for a murder, a person shot at the victim and, thinking that he is already dead, throws him into the river to hide the committed crime, and as a result, the victim dies not from shooting, but by swallowing water - the two actions combine to give the composition of the only crime – the crime of intentional murder. In fact, with the second act, he objectively completes an unfinished murder in the first act. Because the first act of a person can be judged as an assassination attempt on the death of the victim, and the act of concealing the crime can be judged as a manslaughter by negligence if it did not prevent the death of the victim without being possible in it. When we combine both actions into the implementation of a plan that involves one intentional killing and concealing a corpse, it is assessed as a single act, i.e. intentional killing. The concept of a single crime should be distinguished from the concept of the composition of a single crime. According to the first group of scientists who tried to reveal the essence of a single crime, a single crime is an act that contains signs of the composition of one crime.

One of the proponents of such an approach in modern criminal justice is A.S.Yakubov believes that "a single crime is an act consisting of one crime and qualified by one substance or part of it"<sup>14</sup>. O.A.Yusupdzhanov argued that "the science of Criminal Law and criminal law closely

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<sup>10</sup> Малков В.П. Совокупность преступлений (вопросы квалификации и назначения наказания). Казань: Изд-во Казанского ун-та, 1974. С. 54.

<sup>11</sup> Малков В.П. Множественность преступлений и её формы по советскому уголовному праву. Казань: Изд-во Казанского ун-та, 1982. С. 12

<sup>12</sup> Классификация преступлений и её значение для деятельности органов внутренних дел. Учебное пособие. Под ред. Н.И. Загородникова. М., 1983. С. 39.

<sup>13</sup> Пионтковский А.А. Учение о преступлении по советскому уголовному праву. М.: Госюриздат, 1961.С.632.

<sup>14</sup> Жиноят ҳуқуқи. Умумий қисм: Дарслик (Тўлдирилган ва қайта ишланган иккинчи нашри) / Р.Кабулов, А.А. Отажонов ва бошқалар. – Т.: Ўзбекистон Республикаси ИИВ Академияси, 2012. – Б. 258

links the concept of a single crime to the socially dangerous act provided for by a particular article of the CC<sup>15</sup>. Each crime can be characterized by only one article (a specific part or clause) of the CC”, he believes. B.B.Matlyubov believes that “.. a single crime covers in itself a single composition of a crime, whose individual signs, due to the peculiarity of the legislative technique, must be contained in several articles in both general and special parts of the Criminal Code”. G. G. Krivolapov understands a socially dangerous act, which, by a single crime, contains signs of the content of one crime, provided for in a certain article or in a part (paragraph) of a special part article. In our opinion, the definition of the above group of scientists cannot reveal the full content of a single crime. Because, when a single crime is considered to be an act involving signs of the composition of a crime, it can be a problem to distinguish some of them from a number of crimes. For example, if we take the crime of bullying as defined in Article 277 of the CC, the crime in question is the only crime, although it constitutes several signs of crime, that is, bullying is expressed in a significant amount of harm caused by intentional disregard of the rules of conduct in society, beatings, minor bodily harm or damage to one's property.

In this regard, V.P.Malkov's opinion that the size and limit of a criminal act should be determined not only by the legal signs provided for by the criminal legal norm, but also by socio-psychological signs inherent in the actions of the individual (inaction). N.S.Tagantsev argued that” the unity of guilt is the main sign of a single criminal act”. R. B. According to Petukhov, a single crime should be understood as one or more socially dangerous actions (inaction) covered by signs of the composition of one crime. In S. V. Poznyshev's view, “a single crime implies, first of all, the unity of the object to which the attack is directed...” In our opinion, the unity of an object cannot be seen as a typical sign of a single crime, since the totality of an object can be damaged even by committing a number of crimes. For example, The Crimes of theft, robbery, fraud are crimes with the same object, that is, the right of another to property is considered the main object of these crimes. Second, a single crime can be multi-objective, a situation in which a combination of these rather than a single common object is mentioned. According to A. A. Herzenzon, “a person's implementation of an action expressed in an activity subject to a single criminal oath, united by a single purpose, aggressor of one object, aimed at achieving a certain result, despite all its diversity, is called a single crime, and this action corresponds to the signs provided for by the corresponding norm of a special part of the Criminal Code”. A. M. Yakovlev believes that the obligatory sign of any crime is one act, one consequence or one act and consequence. But the unity of the crime must be established on the basis of both objective and subjective criteria. The objective criterion of a crime is the unity of the action and the consequences associated with it, or the existence of several consequences on the condition that they produce a single consequence with several identical actions, or the uniformity of these consequences covered by the same criminal legal norm. Subjective criterion, according to A. M. Yakovlev, the objective should complement the criterion. Such a crime can be called a single crime if there is a single form of guilt in an act.

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<sup>15</sup> Юсупджанов О.А. Мураккаб айбли жиноятларни квалификация қилиш муаммолари: Юрид. фан. номз. ...дис. автореф. – Тошкент, 2010. – Б. 18.



In this, the unity (uniformity) of action and the unity (uniformity) of consequences must correspond to the single form of guilt. Note that A.M. Yakovlev arises from the need to take into account both objective and subjective criteria in the assessment of a single crime. In many cases, criminalists consider individual cases of single crimes and associate the concept of single crime with the characteristics (objective or subjective) of its individual elements, but mainly with the objective side, since the legal structures of single crimes are diverse. In the simplest case, one crime consists of one act and one consequence consequences. In other cases, it consists of several (same and non-identical) actions, which lead to one criminal outcome or several criminal consequences. M. N. Stanovsky comments that a single crime is “a socially dangerous, conscious and voluntary act, or a system of interconnected actions that psychologically represent a common motive and a specific form of behavior of a subject that is determined by a single goal and harms social relations”<sup>16</sup>. Despite the various legal constructions, single crime is characterized by the internal interconnection of elements. In the legal literature, this connection is expressed in the organic interaction of elements of a single crime, as a criminal form and content of a crime with each other, or as a means of achieving a criminal purpose and this criminal purpose, or as a result of a criminal act and its criminal . However, forensic practice suggests that internal relations alone are not sufficient to recognize a crime as the only one, as several criminal acts may be stages of a single criminal intent. For example, the illegal purchase of a firearm and the commission of murder with its help does not constitute a single crime, despite the fact that it is for the purpose of carrying out a single criminal intent. Therefore, there are more powerful factors to recognize a crime as the only one.

According to V. N. Kudryavtsev, these foundations are criminological in nature and are taken into account by the legislature in the formation of norms of a special part<sup>17</sup>. The recognition of an act or a group of actions of a person as a single crime and the formation of the norm of a special part as a single crime are based on the peculiarities of actions. These include, in particular, the origin, recurrence, typicality of actions and socially dangerous consequences that are consolidated in this norm, an increase in social risk. That being said, such behavior and their complexes are recognized as the only crime in criminal law, they are not only closely related to the unity of guilt, cause and purpose, but are also characterized by originality, dissemination, repetition and increase the social risk of an act. In recent years, V. P. Malkov paid great attention to the issue of the criteria for the unity of criminal behavior. In his opinion, the question of the unity of criminal behavior can be correctly solved taking into account social and legal criteria together. The legal criterion determines the size and boundaries of criminal behavior by the scope of the criminal law norm, which characterizes the objective and subjective characteristics of an act declared a crime. And the social criterion of the unit of criminal conduct, taking into account the subjective orientation of the individual, allows you to solve the question of what circumstances a few of the actions, each of which can constitute an independent crime, do not depend on. Solving the issues of qualifying a set of crimes, V.P.

<sup>16</sup> Становский М.Н. Назначение наказания при совокупности преступлений: Автореф. дисс....канд.юр.наук. СПб., 1995. С.8-9.

<sup>17</sup> Кудрявцев В.Н. Общая теория квалификации преступлений. Второе издание, переработанное и дополненное. – Москва: Юристъ, 2004. – С. 240

Malkov wrote: “the unity of an applied criminal act is determined both within the framework of the criminal legal norm of a special part of the Criminal Law and by the social content of the acts committed on the basis of the crime” However, not all criminologists accepted the idea of determining the social criterion. So, Y.A. Krasikov, convinced of the need to further prosecute criminal legal institutions and abandon sociologisms, V.P.Malkov’s opinion, as a social criterion, he proposes to clarify the forms of several types of crimes .

The basis (core) of most criminal actions of a person is a set or system of actions (as a series of actions aimed at one object) that differ significantly from each other in the form of manifestation and, according to their objective characteristics, fall into the signs of various crimes. In our opinion, externally they can be divided into a number of separate criminal acts, excluding subjective orientation, which can be classified as independent crimes provided for by various articles of the Criminal Code. However, together or in the system of actions, such individual criminal acts cannot be independently qualified, but are absorbed into another criminal framework, since they do not have independent legal significance in the corresponding criminal act. In the general part of criminal law, there are no special rules governing the appropriation of criminal acts. V.P.Malkov reflects on the feasibility of introducing a special norm on the rules for the appropriation of certain criminal acts by others. The inclusion of such a norm in legislation, in his opinion, plays a large role in eliminating the discrepancy in the qualification of an act and helps to strengthen legitimacy. Determining the basis for the appropriation of certain criminal acts and consequences within the framework of another crime, as a rule, is stricter than the Punisher, plays an important role in the qualification of crimes. Therefore, there was a need to resolve these issues on the basis of legislation.

In our opinion, the establishment of grounds for the absorption of individual criminal acts and consequences within the framework of another crime, as a rule, the fact that it plays a really important role in the qualification of crimes leads to the need to solve these issues in legislative order. The theory of criminal law, the analysis of conditions in which judicial and investigative practice allows the appropriation of certain criminal acts by others, and the analysis of the norms of a special part of the criminal code shows that in the formation of dispositions of a number of norms, the legislator, as a rule, applied the appropriation of criminal actions, not also, in the legal literature, it seems correct to express the opinion that a criminal act that is part of a composite crime must be qualified together with it and in cases where the sanction of the norm for such an act, as an independent crime, is the same as it is. Taking into account the positions expressed in the legal literature, we distinguish signs that characterize a single crime and allow us to determine its general concept.

1. A single crime may consist of a single act (double act) or inaction, or multiple acts (e.g. bullying).
2. A single crime is characterized by a close connection of the actions that make it up. These relationships are manifested in the unity of objective and subjective characteristics.
3. Objective and subjective signs of a single crime define a crime as a conscious, volitional, purposeful act of the individual.
4. A single crime is a system of actions or actions committed due to a common motive and a single purpose.

5. Single crime has its own social characteristics. By criminalizing one or another act (inaction) or set of acts, given their repeatability, originality and social danger, the legislator derives from their social significance in society. For example, the illegal possession of someone else's property, and at the same time the applied violence, was identified as an independent crime as a legislative invasion. Including involuntary manslaughter, bullying, fraud, etc. are the only crimes, but it should be borne in mind that its social characteristics do not always indicate that a single crime is being committed. Suppose that the culprit committed several identical robberies, the socially significant negative characteristics of these robberies overlap, but given all other signs committed in behavior, it will be possible to see a complex set of single crimes or crimes here. It follows from this that the social characteristics of actions committed by a person can only indicate that a single crime was committed in combination with other signs of action.

6. From the point of view of the legal form, a single crime is envisaged as a single content in the criminal justice norm. Definition of the general concept of a single crime E. A. Frolov and R. R. Formed by Galiakbarov. According to them, a single crime "occurs relatively frequently (in terms of motive and purpose of subjects) in a life that is found in practice in exactly this combination, and is separated by law into a single crime due to the usual objective and subjective interdependence. Summarizing the above signs, a single crime can be defined as follows: single crimes are said to be an act provided for by criminal law that encroaches on social relations where the criminal law is guarded, closely related to the unit of guilt, motives and goals of the subject, relatively often committed in such a combination, and due to these typical objective and subjective.