



Research Article

CRIMINOLOGICAL DESCRIPTION OF CRIMES COMMITTED IN THE STATE OF AFFECT AND THE SPECIFICITY OF THE CRIMINAL PERSONALITY

Journal Website:

<https://theamericanjournals.com/index.php/tajpslc>

Copyright: Original content from this work may be used under the terms of the creative commons attributes 4.0 licence.

Submission Date: August 19, 2023, **Accepted Date:** August 24, 2023,

Published Date: August 29, 2023 |

Crossref doi: <https://doi.org/10.37547/tajpslc/Volume05Issue08-14>

Zayniddin Ziyoviddinovich Shamsidinov

Phd, Senior Lecturer, Department Of Criminal Law, Criminology And Anti-Corruption, Tashkent State University Of Law, Uzbekistan

ABSTRACT

The contentious situation that arises in an affective state coincides with a process that restricts strong emotional energy and the ability to control physical strength, and it acts as a catalyst that suddenly increases the psychic intensity of the individual. The impulsivity of an individual's behavior in an affective state makes it difficult for him to choose the right behavior. For this reason, the behavior selection process occurs thoughtlessly, but this does not mean that the behavior occurs from a rooster, even at this time the individ is clearly under the influence of a social control. Thus, it is impossible to imagine the nature of individ as a separation from society, since the ability of a person is formed in the process of social relations in society over long years, and this, in turn, affects the socio-psychological development of the individual. Social factors play an important role in the human psyche and vital activity. Therefore, not only emotional arousal is the basis for an individual to commit unlawful acts, but the socio-economic conditions that set the stage for this emotional explosion and the impact of society can also be an important impetus.

KEYWORDS

Criminal personality, affect, strong mental excitement, self-control.

INTRODUCTION

In the liberalization of criminal law and the appointment of a fair punishment to the guilty person, it is important to deeply scientifically analyze the norms of the existing criminal law and make proposals

on solving problems related to their application in practice.

It is important to take into account the specific level of social danger of the culprit in crimes committed in a

state of strong mental excitement (affect), which acquires the character of arising depending on the situation in itself.

Although in the case of strong mental excitement (affect), the behavior of an individual is not as normal for himself, then specific aspects and pronounced socio psychological qualities of the guilty person are manifested in him.

When we evaluate a crime committed in the case of affect (strong mental excitement) not as a socially dangerous act that harms social relations protected by law, but as a social phenomenon with several reasons that lead to the commission of a crime, in most cases we can witness that the culprit did not directly aim to commit a socially dangerous act and could not find enough strength

The contentious situation that arises in an affective state coincides with a process that restricts strong emotional energy and the ability to control physical strength, and it acts as a catalyst that suddenly increases the psychic intensity of the individual.

As a rule, a lack of stable criminal qualifications is characteristic of persons committing crimes committed in a state of strong mental arousal (affect) and crimes with an alleviating content that arise due to another situation. One common opinion has formed among scientists studying the crime of premeditated murder: the defining aspect of premeditated murder is inextricably linked with the character, emotionality of the killer, that is, with the psyche of a person[1].

In such a situation, a person is characterized not by being convinced that the decision to commit a crime is correct, but by the fact that this situation occurred in conditions that make it difficult for him to choose his

action correctly, and this does not give the person the opportunity to make a deeply thought out decision.

The impulsivity of an individual's behavior in an affective state makes it difficult for him to choose the right behavior. For this reason, the behavior selection process occurs thoughtlessly, but this does not mean that the behavior occurs from a rooster, even at this time the individ is clearly under the influence of a social control.

Aggressive behavior in individual personal qualities is manifested in the following two manifestations:

1. A person who does not have sufficient self-control. Such individuals will also tend to respond aggressively to situations that are perceived by many in the middle norm, or where there is no attention at all. In emotionally unstable individuals like this, affect occurs in most cases as a result of unexpected excitatory effects (unexpected aggression, bullying, etc.
2. Individuals with high self-control are able to suppress their aggressive behavior, but in exceptional cases they can also engage in handfighting on overly aggressive actions. It is characterized by the predisposition of individuals to the occurrence of an affect, first of all, in its passive form, in relation to the accumulation of mental difficulties that serve the external state or situation and the occurrence of an affect[2]. In conditions where there is a state of long-term depression or difficulties, an affect can also occur due to a trivial cause. These individuals with both types of personal qualities tend to explode in an affective state. They differ from each other in the specific nature of the situations that provoke an affect[3].

If the subject of the crime is a criminal – legal concept, then the criminal personality is considered a social-biological and social-psychological concept. In the

subject of the crime itself, the person characterizes the signs necessary for criminal prosecution for a socially dangerous act. The criminal personality, on the other hand, is a broader concept in relation to the subject of crime, which covers a wider range of characters that are excluded from the range of characters that the subject of crime describes in itself, and features related to the social description of the individual[4]. In criminology, a criminal personality is understood as "a complex of specific socio-mental characteristics that cause the commission of a crime by a person"[5].

At the same time, this concept has criminal-legal significance in solving such issues as the appointment of punishment in criminal law and exemption from serving sentences. As confirmation of this opinion, article 55 of the Criminal Code establishes mitigating circumstances that must be taken into account when prescribing punishment, which includes socio-psychological and socio-biological characteristics that characterize a criminal person, such as the commission of a minor's crime, the commission of a pregnant woman's crime; as a result of severe personal, family circumstances or These characteristics cover issues such as the demographic and social signs of the offender (age, family circumstances), his biological state at the time of the crime (pregnancy, severe personal, as a consequence of family circumstances or other difficult circumstances).

G.M.Reznik writes - "Person, considered the most complex object for any area of knowledge, it is not given a complete definition in any science, but rather each science interprets the individual in its own way[6]. O.Jalilov took a special approach to the issue, saying that "not all objective factors that make it possible to commit a crime can be associated with the identity of the perpetrator. For example, in a subject with a high crime rate, cases of crime victims are common. But, he

believes "this factor will not be associated with the personality of the criminal, but with the criminogenic environment in that subject"[7].

The subject acquires a specific form of behavior in the process of his participation in social relations in society. This process takes place under the control of society and is the result of self – government, manifested in the form of "Me".

The different form of behavior is a derivative of preconception, and how to act in specific situations is formed in the mind as a specific form of behavior.

An important role in the formation of a specific behavior is played by the process of "accumulation of mental arousal", which occurs as a result of repeated several times. As a result of the repetition of behavior of the same shape, a type of behavior is formed that moves abruptly when a situation of the same shape appears in an individual. In this case, we are talking about the process of responding a person with socially dangerous actions in relation to a specific life situation. While the individual is mentally prepared to react in this form, in most cases he does not have a deep understanding of his actions, and his motives aimed at justifying his actions often acquire a superficial character.

In order to contradict morality and illegally respond to the situation that has arisen as the main element of criminal actions in a specific life situation, a person must be emotionally prepared to a certain extent.

Referring to the form of behavior that is formed in a person, it can also occur as a result of repeated several times in the individual's imagination. For example, if the subject has repeatedly imagined the situation in which his wife will kill him in the event of treason, then in the same form in the event of a real life case, he can

commit this crime without any hesitation. Because, until this time, in the subject's mind, this process would have occupied a solid place as a form of strict behavior.

In the case of affect, an important role in choosing a form of behavior is played by the desire of the subject to harm exactly what social value he has. The reason we come to this opinion is that even in the case of Hatto affect, the individual does not have the hand to harm an object that is very valuable to him.

Therefore, a person with a high level of legal consciousness cannot kill a person intentionally in the case of an affect, even if it is to satisfy the need for revenge. Due to the influence of high legal consciousness, the degree to which an individual performs a form of manslaughter behavior decreases. In situations like this, volitional tension is necessary for manslaughter to occur, and under its influence manslaughter is perceived by the individual as a form of behavior.

In this place, the study of the psyche of the killer is important. Studies have shown that many (76%) regretted their actions by considering themselves guilty only of Investigation and court proceedings under the classification of crimes committed by convicts. The rest did not admit their guilt (5.5%) and admitted in part (18.8%)[8].

Even in crimes committed in the case of affect, often the culprit justifies the socially dangerous act of committing himself and believes that he did it right. Our studies show that in the case of affect, the person who committed the crime is characterized by a low level of social flexibility, a high level of sensitivity to surrounding events and impulsivity in behavior.

According to E.G. Juravel, in order to correctly solve the issue of whether the culprit was in a state of affect

at the time of committing the crime, a general description of the affectogenic situation, the individual psychological characteristics of the culprit, the psychophysiological state of the culprit on the eve of committing the crime, the nature of the culprit's actions during the commission of the crime, the culprit's actions after the crime was committed is required to study the relationship to the consequences[9].

When evaluating affective actions, it should first be taken into account that in these actions, both the usual and Hatto goal-oriented affective symptoms that trigger the affect also occur.

As can be seen from the above insults, demonstrating emotional volitional instability in specific situations makes it easier for an individual to achieve their goals. The spiritual world of a person is inclined to behave in this form. Therefore, affected crimes in the form of the use of violence are often committed by individuals who, for one reason or another, do not have the cultural progress of society and the corresponding feeling.

It is also possible to justify the emergence of a state of emotional disorder (indiscipline) both as a deficiency in human education in a simple form or as a number of internal somatogenic and external psychogenic, heliomagnetic effects that provoke it[10].

In most cases, individuals who commit crimes in an affect state are made up of those who, for some reason, do not fully occupy such moral factors as self-control in life, as well as those whose abilities to control self-control, self-feelings, anger and emotions are not formed.

"They will tend to respond to any individuals or objects that interfere with them with their behavior. They will

be ready to overcome or restore these obstacles or violated interests (dignity, honor, respect and other similar circumstances) in exchange for harm to the lives of other individuals", argues N.A. Ratinova[11].

Features such as ignorance in the person who committed the crime, lack of upbringing, lack of culture, low intellectual level, as well as the fact that his actions can harm others and not being able to correctly assess the situation are considered one of the motivating factors for committing a crime in the case of affect[12].

On the contrary, high culture in an individual, patience, the dominance of stability in emotionality and the presence of the ability to get out of conflict situations serve as a kind of immunity that protects against criminogenic influences and prevents the formation of an affect state.

In our opinion, the state of affect is manifested in most situations in an attempt to restore an individual's violated rights or right by arbitrarily punishing the culprit who caused it.

Undoubtedly, individuals with a high moral education and culture, mastering a form of behavior that can be accepted in society, can be fully integrated into the opinions of scientists who believe that in conflict situations there is no more difficulty in managing their emotions than those with a low moral education noted above and a high intellectual level.

True, violence, abuse or other illegal actions committed by someone can cause any person who follows moral norms in society to either return a negative response or manifest negative emotionality, however, in a person with a high legal consciousness and culture, a response reaction does not lead to the

commission of behavior in the form of harm to the "instigator".

A person with a high legal consciousness and culture can give a critical assessment of his actions from the point of view of prejudice to the right, regardless of what strong mental excitement he has. The human body has a strong adaptability, which indicates a way out of one situation or another, even in cases of mental disorder[13].

The level of upbringing of a person, his legal worldview, legal culture have a specific serious impact on the development of affect. These positive traits always have an important impact on the individual's choice of behavior in complex life situations.

Therefore, the predisposition to affect is also a lack of will to a certain extent. Usually those who have undergone an affective state are considered individuals who have not learned to control their emotions, this category can also be called individuals who are "emotionally disordered" in one word. Each individual can encounter an affect in his or her life in different situations, but does not always allow it to develop.

"It is known that one of the aspects inherent in crimes committed in the form of an "justified" affect is the fact that there are no particular deep intentions in the motive of the guilty behavior" believes B.V. Sidorov. In this case, the culprit's personality manifests itself as a complex phenomenon that embodies various contrasting characteristics. This specificity, while at first glance, does not manifest the culprit as a person who violates the norms established in society, but indicates a specific connection between criminal behavior and the guilty person. This connection should be analyzed in conjunction with the wrongful actions of the victim, which led the culprit to act in a specific

situation contrary to the norms established in society, without separating the individual from external influences that affect his behavior.

The fact that the number of women committing crimes committed in the case of affect is high is determined not by the physiological separation of sexes, but by the discrepancy in the development of social ties that shape behavior in conflict situations and interaction with others[14].

The role of women in society and the family, the burden of caring about the family falling on women in most cases, reveals specific aspects of the crimes in this category committed by most women.

The fact that a husband or father is obsessed with alcohol products, is constantly insulting family members, infidelity of a man and other similar circumstances harm the female psyche and make it the basis for a quick recovery from an affect condition.

Women, by their nature, are not inclined to solve conflict situations by force, they often face the pain inflicted on themselves with patience and willpower. If, in the case of an affect by women, another person is abused in relation to his life or health, then this is consistently considered the result of violence or severe abuse or other unlawful acts committed against them. Because, by their nature, women do not respond to an unlawful act or rape committed against them once and for all with the degree of manslaughter.

On the contrary, the crime committed by men in the case of affect indicates that the crime of women in this category is characterized by the fact that a man's personality is spoiled and quickly offended, and a sharp reaction to the harm caused by pride and dignity is expressed. It is characterized by the fact that men try to solve it through the use of force or force in conflict

situations, which is the main factor in the further acceleration of the process, and the constant consumption of alcohol products becomes the ground.

As a result of the study of criminal cases in this category, convicts can be divided into the following two groups:

The first group has been in a state of mental disorder for a long time; individuals who have been regularly abused by the victim, who have repeatedly caused negative emotions to accumulate as a result of the use of violence, and who have developed a state of intense mental excitement (affect) as a result of a similar situation;

The second group includes convicts who have a normal relationship with the victim, but who, as a result of actions contrary to morality or contrary to the right committed by the victim unexpectedly, have developed an affect condition and committed a crime.

The presence of a good relationship between the victim and the culprit before the crime is committed indicates, first of all, a high degree of influence in creating a state of strong mental excitement in the culprit of a violation of the right or contrary to morality, which the victim unexpectedly commits.

Most of the crimes studied were caused by family-household conflicts (in the family, between relatives, neighbors and other close acquaintances), a condition that indicates that the victim and the culprit are closely familiar with each other.

According to research, 68% of convicts who commit crimes as provided for in articles 98, 106 of CC are married individuals with multiple children in most cases. It is also noteworthy that the contribution of married women in this case was 90%. The analysis of the age of committing a crime of persons who

committed a crime in the case of an affect also shows us the specificity of their crimes in this category.

The analysis of crimes in the case of affect, committed during the period 2014-2020, provided us with the following information. It is also noteworthy, in particular, that a large part of the individuals who committed these crimes constituted individuals with adequate education and low levels of culture. 20.1% of the perpetrators of the crimes analyzed constitute the general educational stage, while those with secondary-specific education constitute 77.6% and those with higher education 2.9%.

It is important to note that affect is a concept that is relevant to psychology, but has long been used in criminal law as a special form of committing a socially dangerous act of a person[15]. At the same time, in the legal literature there are different approaches to the question of whether to include the concept of affect in criminal law. B.A.Sidorov believes that it is advisable to introduce the concept of affect into criminal law, trying to strengthen it in law by introducing it in equal terms with other concepts, or expressing it in other words understandable to everyone, makes it difficult for the affect state to correctly and uniformly apply the norms governing crimes committed[16]. Other authors have argued against replacing the concept of "state of intense mental arousal" with the concept of "affect" without substantiating their own opinion[17]. Taking into account that the concepts of "state of strong emotional excitement" and "affect" are connected to each other in a general and special way, we support N.A. Podolny's opinion that "strong mental excitement is a specific form of the concept of affect"[18].

As can be seen from the above statistics, crimes in this category are committed mainly by persons aged 18-30 years. In particular, this indicator is characteristic of individuals of the male genus. The victims of crimes

committed by persons of these age categories are mainly friends of the culprit or persons who are close to him.

The age of the perpetrator of a crime is due to the fact that he plays an important role in the study of his personality, and above all, the individual's own age and the resulting worldview arise as a result of the influence that society shows to him those around him that surround him. O.According to the results of a study conducted by Olshevska, it came to the following conclusion: "the more the central nervous system of a person who committed a crime is at the stage of formation, the easier and more fervent the emergence of an emotional state to such an extent"[19].

Research conducted by N.R.Ziryanova shows: "the rate of stimulation of the nervous system and response to external influences of adult individuals between the ages of 19-24 is significantly higher than that of individuals over this age, and this indicator also decreases in turn as a person ages"[20].

As an individual ages, the human nervous system also begins to be less affected by the effects of the above-mentioned criminal triggers. The age of 21-50 is distinguished by its peculiarities. It is these persons of this age range who begin to have a place in society and begin to feel the responsibility of the person who performs the decisive task in the family.

Bad luck in personal life, problems in family relationships, various persistent diseases and other cases of complete derailment of the nervous system in general indicate its negative impact on human activity.

According to an analysis of the statistical studies carried out, in 2014-2017, 84.4% of the perpetrators of the crimes provided for by articles 98, 106 of CC were

found to have been committed by representatives of the male sex, and 16.6% by women.

It is also noteworthy that a large part of the individuals who committed these crimes constituted individuals with adequate education and low levels of culture. 20.1% of the perpetrators of the crimes analyzed constitute the general educational stage, while those with secondary-specific education make up 77.6% and those with higher education make up 2.9%.

55% of the persons brought to criminal responsibility for crimes committed in a state of affect are engaged in work, and 45% are of school age[21].

As a result of the research carried out, we were convinced that isolation from the life of an active society, a low level of worldview and information, one favor of the interests and actions of the individual, only the superiority of one's own personal problems over all things, the presence of poverty or family insufficiency in most cases in a person enhances the tendency.

In the criminological description of these crimes, the individual-psychological specificity of the perpetrator of the crime is important, in particular, the type, temperament, other psychophysiological specificity of the nervous activity. These characteristics make it easier for the affect to occur, and this in turn serves as a motivating factor for the realization of criminal behavior. These are the specific signs of the individual and the circumstances that motivate the commission of another crime all together lead us to conclude that the socio-psychological aspects of the individual constitute the main role in the crimes committed in the case of affect.

Thus, it is impossible to imagine the nature of individ as a separation from society, since the ability of a person is formed in the process of social relations in society

over long years, and this, in turn, affects the socio-psychological development of the individual. Social factors play an important role in the human psyche and vital activity. Therefore, not only emotional arousal is the basis for an individual to commit unlawful acts, but the socio-economic conditions that set the stage for this emotional explosion and the impact of society can also be an important impetus.

So, in the case of affect, the person who committed the crime also shows himself a real social image with these actions. Although such crimes are committed without prior thought, but it also does not carry randomness in itself, the individual expresses his volitional attitude towards social values in society through his illegal actions. This serves as the basis for the formation and emergence of volitional relations, and the influence of social relations in society.

REFERENCES

1. Крутько О. Қасддан одам ўлдириш. // Ҳаёт ва қонун. 2005. – №3. – Б. 38-39
2. Нагаев В.В. Основы судебно-психологической экспертизы. – М.: ЮНИТИ-ДАНА, 2000. – С. 115.
3. Синтковская О.Д. Аффект: криминально-психологическое исследование. – М.: Юрлитинформ, 2001. – С.13.
4. Уголовное право России. Учебник для вузов. В 2-х томах. Т. 1. Общая часть. Ответственные редакторы и руководители авторского коллектива — доктор юридических наук, профессор А.Н. Игнатов и доктор юридических наук, профессор Ю.А. Красиков. — М.: Издательство НОРМА (Издательская группа НОРМА—ИНФРА М), 2000. — 639 с.
5. Абдурасулова Қ. Р. Криминология. Альбом схемалар. – Тошкент: ТДЮИ, 2005. –167 б.

6. Резник Г.М. Личность преступника: правовое и криминологическое содержание // Личност преступника и уголовная ответственность. – Саратов, 1981. – С.29.
7. Жалилов О. Жиноят содир этилишида мухитнинг таъсири. // Нуқуқ ва бурч. 2010. – №2 (50). – Б. 53-54.
8. Крутько О. Literature shown above. – Б. 38-39.
9. Журавель Е.Г. Психические состояния личности и их психолого-правовая оценка // Юридическая психология. 2011. – №1. – С. 2-4.
10. Марковичева Е.В. Использование судебно-психологических и комплексных судебных психолого-психиатрических экспертиз в доказывании по уголовным делам // Юридическая психология. 2008. – № 5. –С. 11.
11. Ратинова Н.А. Саморегуляция поведения при совершении агрессивно-насильственных преступлений: Диссертация... канд. психол. наук..М., 1998. –С. 208.
12. Хамидов Д.Х. Значение типологии личности преступника в организации общей профилактики насильственных преступлений. // Ҳуқуқ - Право – Law.2002. – №4. – С. 38-41.
13. Раджабов Ш.Р. Уголовно-правовой и криминологический анализ убийств, совершённых в состоянии аффекта: Диссертация... канд. юрид. наук. Махачкала, 2003. – С.192.; Корягина М.С. Проблемы бессознательного при совершении убийства: криминологический и уголовно-правовой аспекты: Автореферат дисс.. канд. юрид. наук. Ростов н/Д, 2004. – С. 25.; Шабунина А.Н. Уголовная ответственность за преступления, совершаемые импульсивно: Автореферат дисс...канд. юрид. наук. Волгоград, 2000.– С. 25
14. Антонян Ю.М. Преступность среди женщин. – М.: Юрид. лит., 1992. – С. 243.; Антонян Ю.М., Кудряцев В.Н., Эминов В.Е. Личность преступника / Ассоц. «Юрид. центр». – СПб.: Юрид.центр Пресс, 2004. – 364 с.
15. Ю.Шарьурова. Понятие «аффект» в уголовном праве. // Закон и право. 2010. – № 2. – С. 88-90.
16. Сидоров. Б.А. Аффект: его уголовно-правовое и криминологическое значение – Казань: Изд-во Казанского ун-та, 1978. – С. 41.
17. Бородин С.В. Преступления против жизни. – М.: Юрист, 1999. – С. 181.
18. Подольный, Н.А. Понятие «аффект» в уголовном праве / Н.А. Подольный // Государство и право. 2003. –№ 4. – С. 64.
19. Ольшевская О. Роль и значение эмоций. - Минск: Беларусь, 1968.–С.18.
20. Зырянова Н.Р. Нейродинамические характеристики взрослого человека и их связи с интеллектуальными чувствами: Автореферат дисс. канд. юрид. наук. Л., 1970. – С.23.
21. Statistics of the Supreme Court of the Republic of Uzbekistan.