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## **Basic elements of the mechanism of committing terroristic and religious extremist crimes**

The way of committing crimes, connected with the activity of non-traditional religious confessions and cults, in the first place is interdependent with the implements of crimes committing. Of the considered group and is determined as the system of actions which are chosen for criminal aim achievement and conditioned by the character of nontraditional religious activity, therefore the choice of crime implements is different from forensic characteristics of crimes, committed outside confessions and cults. Also these actions are conditioned by the circumstances, subculture, presence of professional crime experience, and personal physiological and psychological qualities of criminal — adherents.

*Key words:* non-traditional religious confessions, the circumstances, subculture, presence of professional crime experience, and personal physiological and psychological qualities of criminal adherents.

At the present stage of development of post-Soviet states, members of the CIS, there is the most urgent question about technologies for the identification, detection and investigation of terrorist and religious extremist oriented crimes, i.e., the crimes which are related to the activities of non-traditional religions and cults. The threat of religious extremism and terrorism is a new phenomenon not only in Kazakhstan society, but also it affects the whole world community.

In these kinds of socially dangerous acts, clearly traced their connection with the spread in our society non-traditional religious ideas and views of the Islamic, Christian and other directions. This factor, in turn, allows to combine them into a group that can be defined as crimes related to the activities of non-traditional religions and cults. It defines the problematic issues of theoretical and practical nature, understanding the essence of the phenomenon, the development of scientific and applied recommendations for their identification, detection, investigation and counteraction.

However, the concept of counteraction to extremism, particularly to religious extremism, as a reaction of the state to the spread of negative influences of violence in all its forms, is not quite adequate.

The counteraction traditionally means the committing of actions, which impede to other actions. For terrorism and religious extremist oriented crimes, counteraction is ineffective, and often has the opposite effect. This is due to the specificity of religious activity, delicate question of the inner world of the human, which affects the mental and psychological sphere, his consciousness, the level and individual needs of the religious consciousness, a system of values, religious beliefs, personal feelings and spiritual needs.

Indicated determines not only the specifics of the process of detection and investigation of the crimes, but also awareness of the basic elements of criminal characteristic of crimes as scientifically grounded technology of production of legislative actions of the competent authorities of the state.

In this regard, it is necessary to solve arising issues of investigation with the scientific sources of the elements of criminalistic characteristics of the crimes and analysis of its basic elements, the dominant of which is the method and instruments of committing acts, which have the fundamental informative function.

«The method of committing a crime is a system of interdependent adjustably determined actions to prepare, commit and conceal the crimes related to the use of appropriate instruments and means, as well as the time, place and other circumstances, which contribute to the objective situation of crime» [1; 15, 16].

The knowledge of the method and instrumentalities of crimes related to the activities of non-traditional religions is important, due to three specific and interrelated plans, which take into account the psychological aspects: criminal law, criminal procedure, criminology.

In the criminal law aspects, the meaning of the method of committing a crime is not uniquely determined.

For example, A.N.Trainin pointed out that from the perspective of dogmatic interpretation of the text of the rules of the Special Part of the Criminal Law, «the method of committing a crime is considered as a facultative element of the objective side of a crime, as it is mentioned not in all dispositions» [2; 98, 99].

V.N.Kudryavtsev, continuing the discussion, determines the method «as a certain order, the method, the sequence of movements and techniques used by a person, which are qualitatively characterize the criminal act» [3; 71].

G.G.Zuikov proceeds from the following content of criminal law meaning of the method of committing a crime:

- on the basis of method of committing crimes, the legislator differentiates criminal acts from each other (eg, theft, murder, escape, etc.);
- method of action is used by legislators as the main criterion for establishing criminal liability for acts that will be executed in other ways and involve only administrative or civil liability;
- in some cases the method of committing a crime is provided in dispositions of articles of the Special Part of criminal law as a circumstance, which qualifies deed;
- some of the methods of committing a crime are aggravating circumstances;
- the method of committing a crime is taken into account by the court in the individualization of punishment, because the method characterizes the deed, subject of a crime and the subjective side [1; 6].

But criminal law understanding of the meaning of the method during the investigation is not enough.

Criminal procedural meaning of the method of committing a crime is expressed in the contents of the subject of proof. The method of crime must be determined and proved by the factual data, obtained as a result of investigative actions in order to establish objective truth in the criminal case.

The criminal procedural aspect of the method of committing a crime is considered «as a complex of acts committed by the offender in a certain sequence and leads to criminal result» [1; 20]. In this sense, the method of committing a crime is the part of the objective truth, established in a criminal case, and play an auxiliary role in the verification and assessment of evidence, established in the subject of proof, what shows its criminal procedural meaning.

In criminalistics, the method of the crime committing is determined by its informative and deterministic factors, which are important in the investigation of criminal cases of different types and groups of crimes. «The criminalistic science studies the method of crime committing, essentially as informative phenomenon of reality, and on the basis of knowledge of the laws of its formation, causes and forms of repeatability develops tools, techniques and methods for detecting, gathering, research and assessment of forensic evidence» [1; 11, 12].

G.G.Zuikov pointed out that the criminalistic meaning of the method of crime committing and the possibility of considering it as evidence of laws of occurrence of evidence, based on the determinacy and repeatability of the methods of crime committing» [1; 12].

The factors, which determine the methods of committing of terrorist and religious extremist oriented crimes according to the foregoing provisions can be classified according to external expressions, related to the environment, where the offender acts, and internal, related directly to his personality, psychological characteristics and motivations of behavior.

The content of external determinate factors of committing terrorist and religious extremist crimes can be defined as crime object's features, the subject of a criminal assault, the objective conditions of prevailing situation of crime committing, the objective relationship or its lack thereof between the object of criminal assault and the offender. External factors perform their functions through the mental state of the offender, his emotions, outlook, feelings, intellectual potential. Further, the mental state is determined by such feelings, which characterizes the external environment, determine the individual decision-making on certain events and form their significance.

The internal factors include: the motive and purpose of committing a crime, personal characteristics and qualities of the object of crime, his mental and psychological type and features. Internal and external factors are in constant interrelation and interact with each other, what defines individuality of the method of the crime committing in the sphere of religious activity by that or other person.

These factors, in our opinion, in practice of investigation of terrorism and religious extremist oriented crimes should be considered together, inseparably from each other, in order to clearly establish the event of the crime and the method of its committing.

Necessary to consider, that indicated factors change with time, what is typical for faith in the irrational, which is inherent to human and while saving the integrity of objective setting of committing a crime, some of its elements change or end their existence and they are replaced by another ones, taking into account that the subject of crime carries out a criminal intent.

The process of determination of methods of committing terrorist and religious extremist crimes lies in the fact, that means homogeneous, similar criminal acts committed by the same person (for example, the spiritual leader of the confession) will not coincide with each other in all its elements. This leads to a decision of necessity to substantiate the assumptions of «similar methods have to coincide in number of characteristic features», as well as «the reflection of events of crime has situational character in the external environment, depends on conditions, in which it took place».

«The reflection may be incomplete, or changed in the external world, and the information about the event and the evidence may remain unknown» [4; 132].

Repeatability of the method of crimes committing, which is related to the activity of non-traditional religions and cults, based on determinacy, defined by the conditions and the nature of this process.

As any other phenomenon of the society and the result of the activities of the individual, the repeatability of an action, let alone related to the field of faith in the irrational, based on the separating laws governing the process of a certain complex of motivated actions. In turn, this motivation is shown in the choice of the best way of committing a crime that «does not exclude deviations, reflected in the fact that any person may commit a crime, which wasn't committed earlier, or by other method or partially modified method» [1; 15].

Thus, the dependence on the prevailing circumstances is the base for the choice of method of committing terrorist and religious extremist oriented crimes, which is formed by actively preached idea of a specific non-traditional religious confession.

Such an assumption, at the present stage of religious activity may be the theoretical basis of various types of criminalistic recommendations in the practice of investigation of crimes related to the activity of non-traditional religions and cults.

In our opinion, the concept of method of crime committing of terrorist and religious extremist oriented crimes requires first and foremost an intellectual approach to the process of identification, detection, investigation and prevention of crime and countering them, and assumes understanding its psychological effect, which is a system of determinate actions, classified into three separate parts: the action — activity, directly action, action — the operation. In this case, all three types function as a movement or activity in relation to the investigation — as technology.

A.N.Leont'yev, Yu.D.Panov indicated in their research, that «the term» activity «- is a complex of processes of association aimed at achieving the result that assumes the committing of action» [5; 328]. Actions are relatively independent processes, subordinated to independent goal, but correspond to the idea of the activity to which they belong. Operation is part of action, which corresponds to action, but not to its purpose, as one and those same operations can perform different actions. Actions and operations find their expression in the movements and their combination, which can not belong to a specific operation or a single action [5].

As properly noted G.G.Zuikov «the detection of the method of committing a crime in a particular criminal case is to identify the system of movements and operations, by which the actions were committed, as well as the system of action, united by a common purpose and activities of its constituent» [1; 16].

General regularities of criminal activity of missionaries, preachers and adherents can determine criminalistic characterization of terrorist and religious extremist oriented crimes, and generally related to the activities of non-traditional religions and cults. The content of the characteristics and its data allow to visualize its differences from the criminological characteristics of crimes, which are not related to the activity of non-traditional religious and cult.

Criminalistic characteristic of crimes includes the system of important information about the elements of a crime of a particular type, group, subgroup, which reflects the natural connections between them, which helps to construct and verify the investigative leads in the investigation and establish objective truth in a particular criminal case.

Criminalistic characteristic of terrorist and religious extremist oriented crimes should include a system of information about the preparation, committing and conceal the of crime, and the typical consequences of its commission, the identity of the possible criminal, the possible motives and purposes of crime, the identity of the possible victims of crime, and other circumstances of the crime, which include time, place, situation, motive, purpose.

However, the way the commission of crimes of considered type and group as an element of criminalistic characteristics has not only criminalistic significance due to its informational content, but also because at the initial stage of the investigation, the competent public authorities have information about the method and the instrument of its commission.

Terrorist and religious extremist oriented crimes committed by persons, who carry out non-traditional religious missionary activity, as well as adherents, to avoid leaving material traces, they select the method of crime committing by adapting it to the specific situation, emerging criminal situation, that is, in most cases, they prepare to commit a wrongful act in advance.

Method of committing crimes in the sphere of non-traditional cultic religious activity has its own specific feature — initially it has the nature of the psychological impact, it is thoroughly planned, and it is based on psychological performance, i.e. it has a psychological nature, using methods of influence on human consciousness and mental activity in general.

For this purpose, the social environment, the potential and the mentality of society are studied for possible selection of adherents, who are more susceptible to new non-traditional cultic-religious ideas, with a weakened nervous and mental activity, infantilism and emotional instability, credulity, and who can be used in crime committing.

Particular attention is paid to the geographical location of the area where the localization of a religious organization or group is planned, character of actions by the public authorities, which carry out registration, analyzes the experience of the implementation of activity in other regions of the involvement of adherents.

Using as a method of committing the crimes the conditions such as trance, hypnotic influence, including the use of psychotropic substances, as well as the technology of psychological impact and the manipulation of attention, conscious and unconscious part of the human psyche, the formation of persistent concepts of world perception through the prism of the irrational in the natural fears and desires. Such techniques of third-party impact can reshape personal properties, destroy the existing system of values (The world model) and the human psyche.

The analysis of practice leads to the conclusion that the method of committing terrorist and religious extremist oriented crimes is a kind of dynamic stereotype of human behavior, i.e., it is based on psychological laws. This is confirmed by the fact, that repeatability of the method or its part, which were previously used by confession, denomination or cult to commit a crime, are observed in commission of such crimes.

Furthermore, the process of committing crimes depends on the physiological and psychological characteristics of the criminal-adherent, his nervous and mental disorders, psychological traumas which have a significant value to the manipulation of attention and exposure to outside influence of the human psyche.

The general laws of the method and the choice of instruments of committing crimes, related to the activities of non-traditional religions and cults depend on the specific purpose, which is determined by them.

The main elements of the method of committing terrorist and religious extremist oriented crimes are the preparation, commit and conceal, characterized by the specificity of instruments and means of committing socially dangerous acts.

It is necessary to emphasize the dependence of the method of commission, preparatory actions and concealment of crimes on the criminal's personality features. Such dependence has a special significance, which is caused by the nature and direction of particular nontraditional religious denomination or cult (e.g. Islamic type, Protestant type, Hinduism, etc.), its geographic location, origin and disposal, adopted traditions, where the leading role is played by the adherents' individual features which are caused by a number of factors. Among the latter it should include a specific orientation of religious denomination and cult, adherents' individual features as the subject of the crime, witnesses and witnesses from among the adherents-parishioners, their relations with society, personality structure of the inner world, the specifics of the situation where the illegal acts are committed. Repeatability of crimes committing, the ability to use, acquire and improve the criminal experience subsequently lead to the formation of skills of concealment of crimes. Moreover, 92 % of persons belonging to non-traditional religion, denomination or cult, which have the features of a criminal organization, are random, they haven't been previously convicted, haven't been prosecuted, haven't been driven, and they are characterized as positive in the workplace\study, residence. Concealment of crimes in this sphere in 89 % of cases was carried out before the initiation of criminal proceedings, 4 % — at the initial stage of the investigation, at the subsequent stages the concealment was not carried out at all, and in 7 % of cases — during the trial [6]. At the same time the absence of a suspect (accused) in detention affects the activity of concealment of the crime and counteraction to investigation, i.e. a preventive measure does not provide isolation from denomination, and society as a whole [6].

The practical experience leads to the conclusion that in most cases, persons who commit terrorist and religious extremist oriented crimes clearly aware of the social danger of their actions, and deliberately destroy the traces which remain on the scene of the crime, unlike other types of socially dangerous acts. The exception in this case is a person who by virtue of mental disorder is not able to realistically assess the threat

of his actions and does not pursue venal motives, what is partly characteristically for such crimes (for example, a well-known cult, Pskov hermits in Russia that took place in spring 2010) [6].

Information about instruments of terrorist and religious extremist oriented crimes in criminalistics characteristic of the method of the crime is necessary, which is due to specificity of the act in question.

Research shows, that complex of instruments of committing crimes determines the direction of non-traditional religious denomination or cult. The instruments, which are used in crime in this area complement each other, thereby form a complex structure, which includes elements, such as the human, as a biological species, technical and other means (e.g., toxic, psychotropic and narcotic substances). In this regard, a person acts as a highly effective instrument of crime, capable of independent choice of the optimal spatial dislocation for criminal intent before the criminal result. This is especially important when explosive devices are used and achieving the criminal result of terrorism act.

The choice of tools and methods of committing a crime depends on the personal features of the criminal, his psychic abilities, physical strength, skills, belonging to a certain category of adherents or missionaries and it is directly related to the nature of the wrongful act. For example, non-traditional religious denominations of the Islamic orientation, tend to use equally mental impact and training in the use of firearms and explosives, and eclectic cults, which use psychotropic drugs and other substances, as well as modern methods of psychological effects on humans in order to achieve altered states of consciousness.

Professional skills appear in the method of crime committing, that highlight the choice of instruments of crime and crime's concealment, e.g. a person who has no skills in the use of firearms, will not use a weapon to commit a crime.

Personal features of adherents assume the originality of the ways of crimes' concealment. There are various forms and methods of crimes' concealment, ranging from **refusal of giving evidence**, giving **deliberately false testimony**, use of conspiracy methods and the physical destruction of the witnesses. The rules of non-traditional religions and cults, the presence of a subculture and informal rules of conduct forbid witnesses-adherents, victims and offenders to be proactive in the process of investigation. Despite the fact that the passivity leads to a deterioration of their situation related to the possible appointment of punishment, situation awareness, as extremely dangerous to life, mental, physical, health and property of the person and his family.

In the committing of non-obvious terrorist and religious extremist crimes, a way of concealing the crime is a constituent part of the crime committing method.

In the committing of the obvious crimes the method of the crimes' concealment as a purposeful activity may be absent, and **refusal of giving evidence** acts as the implementation by adherents of informal behavioral norms and legislation, such as the announcement of the information obtained during confession, including the public one.

Religious criminals can be subdivided into three categories, which are characterized by individual laws of crimes' concealment.

The first category is prone to premeditated methods of concealment of the crimes, what is reflected in the fact that criminal active adherents deliberately mislead the investigation, thereby winning time, destroy the material traces of their actions, as well as take actions to shift responsibility to other dependent adherents, for example, those parishioners who received financial aid from confessions or cult. They elect the methods of committing crimes as well as its concealment, as a rule, it is murder, where the cadaver is destroyed by some methods.

The second category of religious-cult criminals rarely conceals traces of the crimes, because of imbalance and instability of personal qualities of criminals. During the investigation, they can often change their evidence, perjure against other adherents or members of their families, as forced them to commit crimes.

The third category of adherents in dissimilar cases uses different methods, i.e., they act spontaneously, after committing the crime they may conceal the crime, and may not conceal it. The determining factor here is the specific situation after committing the crime, and the psychological reaction of the person to act committed by him in real time and place. The method of concealment in such cases will be an independent element of criminal activity and is not covered by specific intent. Such criminals are characterized by the following actions: inducement of witnesses to give false evidence, reenactment of non-criminal event, concealment of instruments of the crime, etc.

The analysis has revealed following regularity, which consists in the fact that persons with a higher degree of criminal activity, spend on preparation for the crimes in the area of non-traditional religious cult activity quite considerable time, adapting the method of crime committing and choice of instruments of its

commission to the situation at the time of the crime commission. Adherents with a high degree of criminal activity in the non-traditional religious and cult activity, use during the preparation for the crimes complicated conspiratorial methods of action, which include a special control of conspirator-adherents, the preliminary imitation of any conspiratorial actions, including actions with criminal nature to determine the behavior of the observed person in situation as close as possible to the operatively-search and investigative activities.

Adherents involved in the crime by unfavorable situation, spend on preparation for the crime small amount of time.

Adherents with unstable personality characteristics don't have precise time limits. It should be noted that the crimes committed in the group in 96 % of cases are prepared in advance.

The preparation for crime commission in the area of non-traditional religious and cult activity, terrorist and religious extremist orientation, means making or acquisition of instruments of crime, preparation of an alibi and unspoken consultation with persons, which have special knowledge in various scientific and practical areas such as psychology, jurisprudence, religious studies and so forth. The preparation for the commission of crimes can also include a definition of crimes' concealment.

The method of crime committing is largely elected by adherents-criminals according to the situation, which in our opinion should be attributed to the scene of the crime situation.

The most common type of instruments of the crime in non-traditional religious cult activity is the variety of print media of propagandizing and provocative nature, firearms, explosives (explosive devices, video records, audio record, etc.). In our view, all of the instruments and methods that aimed at the physical destruction of people, or a threat, and also psychological, ideological training should be attributed to the instruments of crime. In this sense, the investigation of crimes related to the activity of non-traditional religions and cults can distinguish the means and the instruments of crimes, which are characterized by an increased danger of its use in the physical and psychological sense. The criterion for distinguishing the concept of high danger of instrument (object or method of influence), which is used in the commission of this group of socially dangerous acts, in this case is the degree of possible damage and power and its spread. For example, an act of terrorism by its threat to society entails a greater harm than the actions of psychotropic substances or changed states of consciousness of adherents with the purpose of taking possession of their property, but the use of substances or methods directly precedes to psychological preparation of the individual's consciousness to actions aimed at the physical destruction of a person or its threat. However, there is a common basis, namely the use of religious and cult activity and psychological methods of influence on a person for criminal purposes.

The instruments of committing crimes reflects not only the professional skills of the criminal, but also his intellectual and emotional potential. Relation of personal features to the use of instruments of committing crimes determines the amount of preparatory activities (time, scene of the crime, accomplices, the nature of material traces, the method of committing a crime, and so on.).

Thus, the basic elements of the mechanism of committing terroristic and religious extremist crimes are the method and the instruments of its commission, which can be defined as a system of actions chosen by the criminal for criminal purpose, and due to the nature of the non-traditional religious activity, and in accordance with this choice of instruments of crime, which is other than the data of criminological characteristics of crimes committed outside the denominations and cults, as well as the situation, subculture, the presence of a professional criminal experience, personal physiological and psychological features of the criminals adherents.

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## Діни-лаңкестік және террористік бағыттағы қылмыстарды жасау тетігінің негізгі элементтері

Мақалада қылмыстың жасалу әдісі, оның қылмыс қаруын таңдаумен байланысы дәстүрлі емес діни конфессиялар және культтердің қылмыстық-жазаланатын әрекеттерін тергеу тәжірибесінің, ішінара террористік және діни-лаңкестік бағыттағы әрекеттерінің негізінде қарастырылатындығы айтылған. Осыған байланысты, қылмыстардың қос түрін жасау әдісі және қылмыс қаруын таңдау, яғни, діни-культтік әрекеттермен байланысты қылмыстардың криминалистикалық сипаттамасынан өзгеше және қарастырылып отырған қылмыстарды жасау тетігін құрайды. Сондай-ақ террористік және діни-экстремистік әрекеттер бағытындағы қылмыстың жасалу әдісі, оның қылмыс қаруын таңдауы қылмыс жасалу ахуалымен, субмәдениетпен, кәсіби қылмыстық тәжірибемен, қылмыскер-адепттің жеке психологиялық және физиологиялық қасиеттерімен тығыз байланысты болады.

Л.К.Аренова

## Основные элементы механизма совершения преступлений религиозно-экстремистской и террористической направленности

Отмечено, что в практике расследования уголовно наказуемых деяний, связанных с деятельностью нетрадиционных религиозных конфессий и культов, в том числе террористической и религиозно-экстремистской направленности, основное — это рассмотрение способа совершения преступления и его взаимосвязь с выбором орудия. Автор подчеркивает, что в этой связи выбор способа и орудий рассматриваемого вида преступления отличается от элементов криминалистической характеристики преступлений, не связанных с религиозно-культурной деятельностью, и составляет механизм совершения преступлений данного вида. Кроме того, в статье определено, что выбор орудия и способа совершения преступлений террористической и религиозно-экстремистской направленности обуславливается обстановкой, субкультурой, наличием профессионального преступного опыта, физиологическими и психологическими свойствами личности преступников-адептов.

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