ANNOTATION

to thesis work of Pirzadayev Arman Nurgabylovich on "Penal and criminological problems of consequences of criminal offences (based on theft-related materials)" for the degree of Doctor of Philosophy (PhD) in specialty "6D030100-Law"

Timeliness of research topic. The category "penal consequences" holds a specific place in the theory and practice of criminal law. This is because "penal consequences" refer to one of the elements of criminal offence, i.e. its objective element and play a crucial role in criminal offences with substantive constituent element.

Any criminal offence that infringes social relations under criminal law protection inflicts a particular damage.

The thesis work does not make it aim to study penal and criminological aspects of consequences of all criminal offences but considers only consequences of crimes against property, particularly related to theft. This is because the right of property holds a specific place in the system of human rights and freedoms. The human right of property is the most important social benefit in the system of social values. Therefore, attack on this benefit is considered as a trespass to the person (in a general sense).

Property is an economic foundation of any social life. Property interests of the owner are recognized by the state as the most significant. Significance of the benefit is also confirmed by the fact that international community has formalized it in the Universal Declaration of Human Rights along with the most important human rights and freedoms: "Everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property" (article 17).

In the meantime, article 6 of the Constitution of the Republic of Kazakhstan captures that "in the Republic of Kazakhstan public and private property is recognized and protected equally".

Protection of property against criminal offence is one of the major objectives of the Criminal Code of the Republic of Kazakhstan. In particular, article 2 of the Criminal Code of the Republic of Kazakhstan provides for objectives for protection of rights, freedoms and legal interests of man and of the citizen, of property, of rights and legal interests of organizations, of public order and security, of environment, of constitutional order and territorial integrity of the Republic of Kazakhstan, legally protected interests of the society and of the state against socially dangerous infringements, protection of peace and security of the mankind, and prevention of criminal offences.

In the theory of criminal law the crimes against property set out in Chapter 6 of the Criminal Code of the Republic of Kazakhstan, depending on availability of absence of mercenary purpose, are divided into mercenary and non-mercenary. In turn, mercenary crimes against property are divided into theft-related and not theft-related crimes. The subject of the research includes socially dangerous consequences of mercenary theft-related crimes against property.

If Chapter 6 of the Special part of the Criminal Code of the Republic of Kazakhstan 1997 included 17 articles (articles 175-188) about crimes against property, the new criminal law "Crimes against property" consists of 18 articles (articles 187-204). Moreover, articles 183-1 and 184-1 that have been criminalized in the previous law are stipulated as individual regulations with sequence numbering in the new law.

Criminal law qualifies seven criminal offences subject to the research as forms of thievery. They include: petty stealing (art. 187), theft (art. 188), appropriation and embezzlement of entrusted property (art. 189), fraud (art. 190), robbery (art. 191), robbery with violence (art. 192), theft of items of extrinsic value (art. 193). Since the previous criminal law did not recognize "petty stealing" as a criminal offence, it contained only six types of theft-related mercenary crimes.

Recently there is an increased threat of physical trespass for owners of property and other owners due to creation and organization of financial (investment) pyramids. Therefore, supplement of a subset of crimes against property with "creation and management of financial (investment) pyramid" (art. 177-1) by the Law of the Republic of Kazakhstan dated 17.01.2014 N 166-V appears justified. In new criminal law the target of criminal offence was detailed, and this penal regulation was shifted from the chapter on crimes against property to the chapter on criminal offences against economic activity. Such decision of the lawmaker appears to be correct since organization of financial (investment) pyramid infringes more a wider range of economic relations rather than property relations.

Formation of new state legal and social and political relations in Kazakhstan resulted in such negative consequences as unemployment, social differentiation, spiritual and moral orientations of the people.

Crime situation deteriorates in the country in the context of drastic consequences. It includes a tendency toward the increase in number of mercenary violent crimes and thefts.

However, social criminality existed in time of primitive societies and was developing in parallel with the development of social relations. And evaluation of socially dangerous consequences stimulated formation of criminal law standards, types of punishments, creation of special authorities and solution to other important issues.

Currently the government carries out a range of large-scale activities based on the "Concepts of law policy of the Republic of Kazakhstan for the period from 2010 to 2020 года" approved by the Decree of the President of the Republic of Kazakhstan dated August 24, 2009 No.858 aimed at improvement of national law policy. A set of important steps is defined in paragraph 2.8 of the Concept as follows: "The most important element of law policy of the state is a criminal policy which shall be improved through comprehensive, interrelated adjustment of criminal, criminally-remedial, criminal procedure law and law enforcement.

When evaluating the present-day state of criminal law one can observe its progressive development. Applicable Criminal Law is a fairly effective tool to combat the crime and ensure criminal defense of rights and freedoms of human, interests of the state and society".

Theft-related crimes against property are the most commonly encountered and socially dangerous among all crimes against property. This can be seen in statistics of theft-related crimes over the last several years.

According to data of the Governance Committee on Legal Statistics and Special Records affiliated to the General Prosecutor's Office of the Republic of Kazakhstan, shows that the proportion of criminal offenses against property in the total number of crimes registered in the republic in 2010 - 67.4%, 2011 - 80%, 2012 - 81%, 2013 - 77.9%, 2014 - 79.5%, 2015 - 75%.

There can be several reasons:

- lack of harmonization in the activity among the government machinery in combating the crime (various departments organize activities independently and individually) and insufficient analysis of results of work;
- absence of comprehensive criminological prevention forecast;
- in the age of globalization methods of commission of criminal offences improve constantly and are ahead of the level and measures taken to combat the crime;
- when unified system for registration of claims and reports in law enforcement authorities was introduced in 2010-2012, the focus was not on qualitative but quantitative parameters.

Understanding of the crime as socially negative fact requires prevention of it by influencing its causes. Therefore, matters related to prevention of negative consequences of criminal offences associated with theft of property, effective combating with the criminal offences and prevention have never fallen out from the agenda. Determination of the cost of the crime aimed at prevention of crimes against property ensures the effectiveness of combating.

Goal and objectives of thesis work. The goal of the work is penal and criminological examination of the nature and the extent of consequences of theft of property. In the meantime, it is aimed at harmonization of definitions of consequences of criminal offences in criminal law and uniformity of qualification, and development of a recommendation to enhance effectiveness in defining the extent and the cost of consequences of property theft and prevention of such criminal offences.

The following objectives are set in the thesis work based on the goals:

- analysis of definitions and characteristics of consequences of criminal offences under the criminal law;
- examination of consequences of criminal offences related to theft as a characteristic of a set of elements of criminal offence;
- development of a recommendation to improve the criminal law and practice of application based on analysis of criminal law standards that provide for punishment for theft-related crimes against property;
- criminological characteristics of socially dangerous consequences of crimes against property, confirmation of importance of consequence cost identification;
- analysis of problems associated with enhancement of effectiveness of measures to combat and prevent consequences of crimes against property.

Scientific novelty of thesis work.

First of all, we highlight the complexity of the topic as a peculiarity of the thesis work. Because **the object** of topic covers two problems. *First*, the problem of theft of property of another. S*econd*, the problem of socially dangerous consequences of criminal offences is examined from the penal and criminological perspective.

Certainly, the problem of theft of property has been studied so far at different level, and it may even seem that the topic has been studied excessively. However, in our work theft-related crimes against property are examined in the context of consequences. The cost of crimes against property and effective organization of preventive measures are studied comprehensively.

Subject of thesis work. Research papers of national and foreign scientists about consequences of crimes, national and foreign law on criminal responsibility for theft, court practice for criminal cases and statistics.

Provisions subject to defense:

1. We consider it necessary to include the definition "consequences of criminal offence" into the Criminal Code of the Republic of Kazakhstan by defining it as "damage and (or) adverse changes as the result of commission of culpable, socially dangerous act prohibited by the Code".

It is submitted that it will allow avoiding mistakes in the law enforcement practice in future.

2. Therefore, it may be necessary to supplement the article 188 of the Criminal law of the Republic of Kazakhstan as follows: "Guilty person shall compensate the owner of property for material and (or) nonmaterial damage to the full extent in accordance with article 917 of Civil Code of the Republic of Kazakhstan irrespective of the imposed penalty". We believe that this regulation will impose more responsibility to persons who commit criminal offences, since in addition to serving punishment they will also have to compensate for property damage.

3. We do not support inclusion of the article 187 "Petty stealing" into the Criminal Code of the Republic of Kazakhstan as a separate new set and we propose to recognize it as an article that requires decriminalization and shift this set of elements of criminal offence to administrative offence as before in accordance with the Administrative Offences Code of the Republic of Kazakhstan. First, it extends the range of criminal offences. Second, it contributes to the increase in number of criminal offences in the country. Third, to prevent these offences the state shall take extra efforts to ensure performance of authorities responsible for combating with criminal offences.

4. We propose to particularize and revise the legislative definition "insignificant scale" (article 187 of Criminal Code). We consider it incorrect to use the term "insignificant scale" in "petty stealing". Since inclusion of this new category "insignificant scale" into the law along with words of similar import like "small scale" and "little scale" will theoretically and practically lead to terminological confusion, and aggravate the meaning. Description in part 1 of the article 187 of new Code contains a term "in insignificant scale", therefore it indicates not "small size" of theft, but characterizes the extent of criminal offence. For instance, within the meaning of "not more than once". Moreover, the second part of the article is called "multiple petty stealing".

It is feasible to specify consequences after the word “id est” in the first part of the article. If so, one will see that lawmaker places a great focus on consequences of criminal offence.

In addition, the meaning of the word “insignificant” is subject to a wider interpretation rather than the meaning of words “small scale” or “little scale”, and creates prerequisites for mistakes on the part of law enforcement officials. It is also practicable to replace the term “insignificant scale” in paragraph 10) of article 3 of Criminal Code of the Republic of Kazakhstan “Clarification of particular definitions contained in the Code” with a clearer equivalent word in Kazakh to “small scale” (“az molsher” (“аз мөлшер”) or to word “little scale” (“usak molsher” (“ұсақ мөлшер”) which corresponds to the title of the article.

5. Damage caused by criminal offences against property totals more than a half of total amount of damage of all criminal offences, however the database records only material damage to crimes against property related to theft. Given that, the damage of such criminal offences appears not only in material but in nonmaterial form as well, it is necessary to record material and moral damage. Therefore, within the frames of provisions on civil claims in criminal proceeding in accordance with section 47 of Civil Code of the Republic of Kazakhstan “Obligations resulting from infliction of harm”, it seems necessary to keep records of these data.

6. Following the results of the work there are three components of the “cost” of crime which contribute to effective prevention of crimes against property: a) damage (direct or indirect) by criminal offences; b) mandatory expenditures of the state in the form of economic and other financial expenses (expenses associated with support of activity of law enforcement bodies, institutes and authorities of corrections, etc.); c) expenses for public security against criminal threats.

Evaluation of research results

Thesis work has been performed at the premises of the Department of Criminal, Penal Law and Criminology of KazGUU University. The main theories, recommendations and debatable provisions have been discussed at the meetings of the department.

Research results, the main provisions subject to defense have been heard at scientific-theoretical and practical conferences and released in scientific publications (according to the requirements of the Committee for Control of Education and Science of the Ministry of Education and Science of the Republic of Kazakhstan).

Structure and scope of thesis work. The structure and the scope of work correspond with the content, goals and objectives of the matter under study, and consists of introduction, three sections, conclusion and bibliography.

The content of the work. Introduction consists of the general description, relevance, level of research, theoretical basis, goals and objectives, scientific novelty, methodology and techniques of normative and empirical base, theoretical and practical significance of the thesis work, recommendations according to the results of research and testing.

The first section "Socially dangerous consequences – as a criminal legal category and the result of criminal legal offences against property associated with

theft" consists of **two subsections** - "Socially dangerous consequences as a result of criminal offences" and "Some criminal legal problems of the consequences of theft".

Domestic criminal law and the law of the USA, Peoples Republic of China, Russian Federation, Republic of Poland, Republic of Armenia, Turkmenistan, Republic of Uzbekistan, Republic of Moldova in respect of the provisions that any criminal offence causes one or another socially dangerous consequences are analyzed in the **subsection "Socially dangerous consequences as a result of criminal offences"**.

According to the legislative structure of the objective aspect of crime there are materially defined crimes (consequences are inevitable), formally defined crimes (committing act is enough for recognition of the moment of completion) and inchoate crimes (where the end of the crime passes to the initial stage of committing act). Socially dangerous consequences are inevitable for each of these types of criminal offences, besides that notwithstanding the fact that the consequences of formally defined crimes fall beyond its scope and do not affect the qualification of the act; they are subject to mandatory registration by the court upon assignment of punishment.

Notion and characteristics of the consequences of the crimes were reviewed and analyzed in the writings of many legal scholars, such as S.V. Zemlinsky, M.M. Babayev, V.V. Luneyev, A.S. Mikhlin, L.D. Gaukhman, L.M. Kolodkin. However, this section, according to various aspects of the category of "consequence", "result", "harm" analyzed standpoints of such scholars as N.F. Kuznetsova, J.M. Brainin, Y.A. Krasnikov, A.I. Rarog, V.N. Kudryavtsev, B.S. Nikiforov, A.N. Trainin, T.V. Tsereteli, N.D. Durmanov.

Criminal consequences are damage coming from the commission of a materially or formally defined crime. The damage in criminal offences of formally defined crime is determined by clarification of the content of the criminal law standards and is explained by the direct object of the crime.

Moreover, given that the criminal damage has tangible and intangible nature, the damage in the majority of criminal offences of formally defined crime occurs similar to the criminal offences of materially defined crime, but generally, it is expressed in intangible form. Therefore, damage in the formally defined crimes cannot be specifically measured or determined. In such cases, any changes in the object will be a threat to the society. In such crimes, the legislator himself determines the degree and nature of the crime, without burdening law enforcement authorities, judicial authorities and the prosecutor's office with such duty, i.e. he recognizes it as sufficient for the recognition of the crime as consummated socially dangerous act, whereby socially dangerous consequences are not considered as a mandatory condition for bringing a person to criminal responsibility.

The study of crime consequences within the direct object of the formal elements of a crime helps to identify the nature and contents of direct and indirect consequences of the crime. The solution of this problem is important for the definition of crimes involving theft of another's property, because these crimes are characterized by several types of damage.

Damage caused to the object, i.e. to the social relations, is divided into the damage caused to the main object, and the damage caused to the additional object.

An optional damage (consequence) stands out along with the basic and additional criminal damage (consequences).

The optional damage (consequence) is such damage, which in the standards of the special part of the criminal law is not explicitly stated, but in specific life situation is covered by such standard, but it requires additional qualification regarding the relevant standards of the Criminal Code. According to the legislative structure of the criminal law, the optional damage does not refer to the elements of the crime, even if it occurs.

Optional damage is not typical for all types of criminal offences, in which connection it lies outside of the formal elements of a crime. Its presence or absence does not affect the qualification of the act.

The additional object is a necessary element of the crime. However, this does not mean that the damage caused to such an object, must also be a mandatory component of the crime. Unlike the object and socially dangerous act, the criminal damage (consequence) is not a mandatory feature, relating to any and all elements of a criminal offence. Encroachment on the object of criminal legal protection does not depend on the occurrence of certain socially dangerous consequences. In such formal components of a crime, the criminal result is not a necessary element of crime.

Optional damage, as well as basic and additional one, can occur both in the process of committing a criminal offence, and outside of such process. One act can cause several consequences.

Thus, the main difference between the additional and optional consequences is that additional socially dangerous consequences are an element of the objective aspect of the crime, while optional consequences are not like these. That is precisely why absence of additional consequences of a socially dangerous act in the presence of the main damage is the basis for the recognition of the absence of a criminal offence. It is asserted that the presence or absence of an optional damage upon damage to the main object of offence does not affect the existence of the formal components of the crime.

At the same time, this section considers and brings forward arguments in favor of the expediency of threefold compensation of the damage caused.v

The presence or absence of a legal notion of the socially dangerous consequence in the remarks to the norms of the Special Part of the Criminal Code of the Republic of Kazakhstan is determined by the method of legislative technique. The definition in the norm of law of the socially dangerous consequence is explained in the legal literature by several circumstances.

Firstly, crime inherently initially has a certain degree of public danger, in which connection the legislator has the possibility to move determining time of its completion to the initial stage of commitment (implementation) of a socially dangerous act, without the necessity to wait for the occurence of socially dangerous consequences (e.g., components of robbery refer to the inchoate crime or formally defined crime).

Secondly, socially dangerous consequences are not always subject to precise measurement and characterization, that is, they may not have explicit quantitative and qualitative indicators (e.g., slander, insult).

Thirdly, the consequence is inseparably connected with the action (in accordance with the law of nature) and in the natural course of events inevitably follows it, for example, the consequences of the act are evident except for the cases when "there is no urgent need in demanding evidence of the committed crime from the investigator or the court" (substitution of a child, unlawful imprisonment, rape, plunder, robbery, etc.).

Thus, in order to prevent discrepancies in determining the types of socially dangerous consequences it seems reasonable to legally define the notion of socially dangerous consequences in the General part of the criminal law in the Article 3 "Explanation of some notions". In particular, it is offered the following definition of socially dangerous consequences of the criminal offence: "Socially dangerous consequences of the criminal offence are damage and (or) harmful changes occurred as a result of culpable commission of unlawful socially dangerous act (action or inaction) prohibited by this Code under threat of punishment".

It is summarized that this step will not admit discrepancies and errors in determining socially dangerous consequences in law enforcement practice in the future.

The subsection "Some criminal legal problems of consequences of theft" in the context of the criminal law protection of property as an expression of the constitutional guarantees of property rights protection reviews the history of the development of legislation about liability for infringement of property, studies the experience of foreign countries and domestic practice for the regulation of criminal matters, including the legal nature of the criminal legal consequences for the purpose of disclosure of the essence of consequences of criminal offences related to theft.

However, in order to improve the contents of the research topic in this section we analyze the statistical information and materials of judicial and investigative practice.

We analyze the different points of view of domestic and foreign scholars regarding the definition of "theft".

Criminal offences against property are recognized as deliberate and (or) negligent acts committed in the forms stipulated by the Criminal Code, connected with the infliction or risk of harm to the proprietor or other owner of the property, the responsibility for which is provided for in the criminal law standards, incorporated in the Chapter 6 of the Special part of the Criminal Code of the Republic of Kazakhstan under the general name of "Criminal offences against property." The subject of study within this research was seven forms of theft, socially dangerous consequences of which constitute more than half of all consequences of the criminal offences in the republic. They are: petty stealing (art. 178 of RK Criminal Code), theft (art. 188 of RK Criminal Code), embezzlement of entrusted other people's property (art. 189 of RK Criminal Code), fraud (art. 190 of RK Criminal Code), plunder (art. 191 of RK Criminal Code), robbery (art. 192 of RK Criminal Code), theft of items of special value (art. 193 of RK Criminal Code).

In the subsection we review the notion, features and types of theft in details for more in-depth understanding of the legal nature of the criminal offences against property, related to the theft of another's property, as well as their socially dangerous consequences.

The study of works of such scholars as Y.I. Lyapunov, G.A. Kriger, V.A. Vladimirov, S.F. Milijukov, A.I. Boitsov, A.V. Golikov, S.A. Bochkarev, Y.A. Razdobudko, V.I. Plokhova, S.M. Kochoi, A.G. Koryagin contributed to solving the objectives of this subsection.

It should be noted that the former Criminal Law of the Republic of Kazakhstan in the state language used clumsy wording of the term "theft" (ұрлау). Such translation of the term was borrowed from the Criminal Code of the Kazakh SSR 1959, where the term concerned was also used to mean "ұрлау". Thus, the legislator admits the use of the collective term to mean the individualized notion.

This fact is especially emphasized in connection with that the word "ұрлау" in Kazakh language is a derivation of the word "ұрлық" - "theft". Moreover, the following situation was observed in the legal structure of the formal elements of the theft in the Criminal Code of the Republic of Kazakhstan 1997, the article 175: "theft, i.e., convert "theft" (ұрлау) of other people's property". It turned out that a theft is a theft. As is known, according to the rules of legislative technique in the legal norm, re-use of one and the same word is not allowed. In the new criminal legislation of the Republic of Kazakhstan the legislator took into account this contradiction and used the word “жымқыру“ to denote the term "theft" and thus, in our view, finally put the matter to rest in the scientific debate regarding this issue.

This section also indicates another problem of technical and legal nature in the use of terminology in the criminal law, in particular, it is argued the incorrectnesss of use of the feature of "insignificant size" in the components of "petty stealing" (Art. 187 of RK Criminal Code) and offers ways to overcome it.

The legislator uses the term "theft" not only in the chapter on criminal offences against property. The definition of elements of criminal offence through "theft" is also found in other chapters of the Special Part of the Criminal Law (for example, theft of drugs, nuclear materials). The subsection also analyzed the different points of view of scientists regarding these types of criminal offences and made corresponding conclusions.

However, the author does not support the legislator's position regarding criminalization of "petty stealing" in the article 187 of the Criminal Code of the Republic of Kazakhstan as one of the new forms of theft and suggests decriminalizing it.

As related to the issues of sentencing for criminal offences against property it is necessary to keep in mind that, in accordance with Part 2 of Art. 51 of the Criminal Code of the Republic of Kazakhstan, 1997 (this edition of the criminal law is valid till 01.01.2016) forfeit of property is established for crimes committed for mercenary motives, and can be imposed only in cases where such type of additional punishment is expressly provided in the authorization of the relevant article of the Criminal Code, Special part. Due to the fact that theft represents the unlawful withdrawal and (or) handling of another's property in favor of the perpetrator or other persons, committed

for mercenary motives, this subsection gives reasons for correctness of the legislator's position who envisaged the possibility of assignment of property forfeit in a mandatory manner in sanctions of concerned group of criminal legal standards of a new criminal law entered into force on January 1, 2015.

Along with that, there is a problem in the sense that in practice criminal legal effect on the perpetrator is often limited by assignment and implementation of respective punishment, while the compensation of the material damage caused to the proprietor or other owner of the property is beyond its scope. According to the general rules, the property withdrawn from lawful ownership of the proprietor or other owner must be returned to him. In this connection, the present research examines the possibility of establishing the obligation of the guilty person in relation to the return to the proprietor or other owner of property stolen in kind or at its market value, for which purpose it is proposed to supplement the norm of Art. 188 of the Criminal Code of the Republic of Kazakhstan with the relevant part.

In addition, this section reviews the issues of criminal legal classification of cases of criminal offences against property by a group of persons under prior collusion or by criminal group as qualifying or particularly qualifying features of the group of crimes.

The list of features of socially dangerous consequences of theft is given in the conclusion of the subsection.

The second section of the thesis under the title "Features and types of consequences of theft" consists of two subsections entitled as "Consequences of theft as a sign of the objective aspect of the criminal offence" and "Problems of qualification of theft by consequences".

The statement according to which revealing the notion and main elements characterizing theft in criminal law promotes the detection and identification of features typical to all forms of theft, facilitates detailed analysis of specific forms of theft, allows to separate from other types of criminal offences and non-criminal encroachment against property is substantiated in the **subsection "Consequences of theft as a sign of the objective aspect of the criminal offence".** In addition, the following its features are concluded in this subsection, based on the analysis of the notion of theft, legally defined in the Criminal Code of the Republic of Kazakhstan:

– withdrawal and (or) handling of property in favor of a guilty party or other persons;

- damage to the proprietor or other owner of the property;
- unlawfulness of withdrawal and (or) handling;
- gratuitousness of withdrawal and (or) handling;
- withdrawal and (or) handling of property of another's property;
- mercenary motive.

The works of such researchers as O.F. Shishov, A.P. Rarog, I.S. Borchashvili, M.S. Narikbayev, K.S. Ukanov, Y.O. Allauov, A.V. Shulga, N.I. Korzhansky, S.M. Kochoi, I.Y. Kozachenko were studied and analyzed within this subsection in order to achieve the goals and perform the assigned objectives.

In addition, positions of some domestic researchers, supporting the international experience with respect to decriminalization of some elements of criminal offences in

the new Criminal Code of the Republic of Kazakhstan dated 2014 became the subject of the study.

After analyzing the features of the object and the objective aspect of the forms of theft under the criminal legislation of the Republic of Kazakhstan, the author states the existence of different opinions in criminal legal science regarding the determination of the object of theft. One group of authors acknowledges economic ownership as an object of encroachment upon theft, i.e. considers the right of ownership from the perspective of the basic category, another group of researchers is of the opinion that the object appears to be the ownership, the third group - simultaneously recognizes both economic ownership, and the right of ownership, while another group of authors recognizes property and property interests of the offended party as an object of theft.

Having studied and analyzed opinions of various authors, the author of this research comes to a conclusion about trueness of recognition of the ownership relations as economic and legal category as the object of a group of criminal offences under consideration. The main argument in favor of such point of view comes out the fact that ownership relations in the society are governed, defined and protected by the norms of right to own, use and dispose of property. In the process of implementing these powers the citizens enter into definite legal relationships, a certain part of which having the respective degree of public danger violates penal prohibitions.

Due to the fact that the general object of the group of criminal offences under consideration are the property relations, actions related to theft, are directly aimed against the property. That is precisely why the chapter 6 of the Special Part of the Criminal Code of the Republic of Kazakhstan is entitled "Criminal offences against property." Public relations arising over the ownership should be considered as generic object of criminal offences.

The generic object of criminal offences against property, including those related to theft, is social relations associated with the property, consisting of rights of the proprietor or the owner of a property for possession, use and disposal of them.

The direct object of criminal offences against ownership is any form of ownership. Along with this, the subsection analyzes the scientific points of view regarding distinction of the object and the subject of encroachment upon theft.

In addition, the subject of the study within this subsection were physical and tangible, economic and legal features of the subject matter of all forms of theft both from the point of view of the theory, and practical position of criminal law. The true definition of the content of the features of the objective aspect of theft contributes to the proper identification of its extent and nature of public danger.

In order to obtain a more complete picture of the components of forms of theft, this subsection reviewed features of the subjective aspect.

The **section "Problems of qualification of theft by consequences**" states the importance of classification of types of thefts for judicial and investigative practices. Judicial and investigative practice should classify theft by forms and types, not only by the method of their commitment, but also practical value and classification by the size of the damage caused to the proprietor or other owner of the property. The science of criminal law classifies criminal offences related to theft by various bases.

Competent use of doctrinal classification contributes to the improvement and optimization of the judicial and investigative practice, as well as to the identification of ways to solve various issues of concern.

However, criminal laws of such countries as the USA, the UK, Japan, Italy were analyzed in this section regarding the specified issues.

The current criminal legislation of the Republic of Kazakhstan allocates four types of theft related to the size of the damage caused:

1) petty stealing in a small amount (art. 187 of RK Criminal Code) - the value of property, not exceeding ten-fold monthly calculation index; in respect of an individual - the property which value does not exceed two-fold monthly calculation index;

2) theft (part 1, art. 188 of RK Criminal Code) - covert theft of another's property in the amount from ten to five hundred monthly calculation indices;

3) theft committed on a grand scale (part 3, art. 188 of RK Criminal Code) - the value of property is within 500-2000 monthly calculation indices;

4) theft committed on especially big scale (part 4, art. 188 of RK Criminal Code.) - the value of property is in excess of 2000 monthly calculation indices.

Based on this classification criteria, the author identifies and examines in detail such its types as petty, simple, large and especially large (the theft of items of particular value) theft in the subsection.

Also, the subject of study within the subsection is the issues of differentiation of traditional forms of theft, allocated in the domestic law: theft, fraud, misappropriation and embezzlement of entrusted other people’s property, plunder and robbery. In order to successfully solve this problem we analyzed doctrinal position of both domestic and foreign science of criminal law.

Incorrect qualification of criminal offences may cause the assignment of unreasonably tough or mild sentence. This, in turn, may cause imbalance of such interrelated and mutually supportive notions as general and special prevention. In this regard, the author made statements about the place and role, as well as the problems of sentencing for criminal offences related to theft. The issues of necessity of counteractions to criminal offences that do not represent great social danger by proper coordination of public enforcement measures and measures of social pressure were more deeply investigated.

The **third section** of the thesis under the title "**Criminological problems of socially dangerous consequences of criminal offences related to thef**t" consists of two subsections "The price of theft consequences" and "Effectiveness of prevention of criminal offences related to theft".

In the section "The price of theft consequences" the author considers socially dangerous consequences not only with criminal law position, but also from the perspective of social impact, coming as a result of criminal offences.

The author gives reasons for the historical significance of the study of socially dangerous consequences of criminal offences, which have become an important instrument in solving scientific, legal, methodological, organizational, regulatory, technical, executive and other tasks of the fight against crime.

Thus, in determining the price (value) of socially dangerous consequences of

crime associated with theft, one should take the following facts into account:

1) it is a criminogenic factor, i.e. the factor promoting commission of new criminal offences;

2) despite the fact that this factor is taken into account in the theory of criminal law and criminology, it cannot affect the determination of the degree of public danger in terms of price (for example, the perpetrators, whose actions caused damage amounting to 500 thousand and 700 thousand tenge can be punished equally, etc.);

3) it is of importance in conducting criminological forecasting.

For more complete exploration of the contents of the issues under consideration, in this subsection the author provides statistical indicators such as one of criminality in general, and criminal offences, in particular of 2010-2015. Quantitative indicators by forms and types of theft, as well as their socially dangerous consequences for the specified period were more completely analyzed, the characteristic of causes and conditions of crimes were provided as well.

In addition, the author analyzes the possibility of future use of evaluation techniques of the price of criminal offences (socially dangerous consequences) associated with theft, based on a formula proposed by Russian researchers L.V. Kondratjuk and V.S. Ovchinsky in the scientific work "Criminological Dimension", where the individual's criminal behavior is considered in biological, economic, demographic, social, political, spiritual and ethical contexts and is measured in three planes - biological, mental and spiritual ones. Thus, it is stated that the behavior of a person is directly connected with the state of his inner spiritual development, as well as with the degree of spiritual development of the society as a whole, with which the person has to interact directly. The author, guided by this postulate, made an attempt to solve the problem of determining the price of crime. In order to determine the amount of damage caused to the society by murder, the above authors offer to apply the following formula, which takes into account such factors as the average salary of the victim, his age, and the average duration of human life in the given society: Ус = (t - t2)*S, where t - the average duration of human life, t2 - the age of the victim, S - the average salary of the victim. (t - t2) - time that the victim could live out.

To apply this formula for determining the price of damage to all crimes in general (Усо), the damage caused by a particular criminal offence (Ус) should be multiplied by the total number of victims (N): Усо = Ус*N. According to this formula for determining the price of one crime, one should apply the following formula: Ус = Усо/N, that is supported by the author of this work.

As well as in the previous sections, the author studied the position of scientists from different countries (the USA, South Korea, Russian Federation, United Kingdom, Germany) regarding determination of components of crime prices, the causes and conditions facilitating the commission of criminal offences.

The author gives a definition of the crime price in the narrow and broad sense.

In addition, this section provides the results of interesting sociological research of spending of criminal revenues and social situation of persons who commit criminal offences.

The **subsection** "**Effectiveness of prevention of criminal offences related to theft**" begins with a statement about the appropriateness of the preventive measures, than the fight against the said group of crimes.

Crime prevention is a set of interrelated activities carried out and implemented by the whole society and the individual state bodies in order to prevent crime, and represents a system that has its object of prevention, basic levels and forms of conduct, subjects.

Objects of crime prevention are factors of economic, social and political nature, somehow affecting the status and dynamics of crime, law-abiding by separate category of citizens, characteristics of a criminal personality.

According to the social level, scale, regional coverage, stages of impact on the object of prevention, type (content) of impact, person performing this activity, crime prevention measures are divided into general, special and individual, each of which in this subsection became the subject of a detailed examination.

At the same time, the author separately fixes on analysis of measures directly aimed at causes of committing such crimes as theft, fraud, plunder, robbery; the characteristics of organizational, technical and special nature, as well as social measures of impact are provided in this respect.

In addition, this section provides several victimologic provisions relating to theft victims, analyzes the works of such scholars as U.S. Dzhekebayev, N.O. Dulatbekov, I.M. Galperin regarding determination of the place and role of punishment as means of criminal offence prevention.

Three levels of determination of crime: general social, social and group and individual, were studied in detail.

Four main areas of crime prevention directly related to the aforementioned determinants of crime are specified.

In addition, it is summarized the stimulating effect of the structural parts, as well as the whole complex of mechanism of counteraction for criminal offences against property in relation to the achievement of objectives of criminal law policy on crime prevention.

Also there was developed a list of basic requirements needed in implementation of successful counteraction for criminal offences against property and ensuring the effectiveness of individual preventive measures.

The **conclusion** reflects the findings within goals and objectives (except for the provisions for defence) set out in the thesis.