

**UNIVERSITY OF WARMIA AND MAZURY
FACULTY OF LAW AND ADMINISTRATION**

Piotr Bogacki

**THE OFFENCE OF ROBBERY
CRIMINAL LEGAL AND CRIMINOLOGICAL STUDY**

The object of my doctoral dissertation was to present the essential issues of penalising robbery, as well as to portray the practical ramifications of Art. 280 of the Criminal Code. These issues are highly meaningful both in theoretical and practical terms. In order to seek any alternatives so as to improve the contemporary administration of criminal justice, it first takes to arrive at the right diagnosis of, e.g.: the scale of crime, structure and dynamics of offences, course of pre-trial and court proceedings, dynamics and structure of application of penalties and other penal measures, social attitudes to crime and offenders. Crime, including robbery, spoils the quality of life, ruins the sense of safety, and restricts social activity. Hence, it is reasonable to profile the personality of the perpetrator, identify his motives, describe the effects of robbery on the health and property of the victim, modes of operation and means of assault, define whether the offender acted as principal or accessory, and determine the extent of punishment. Criminologists most often focus their attention on the offender, while omitting the situation of the victim. In this context it has transpired that it is also necessary to pay attention to the victim of robbery, in particular to highlight the victim against the background of the crime of robbery. Requisite to achieve the desired results is that both persons involved in this kind of criminal incident are paid equal attention. This approach to the subject matter opens an opportunity to get a full picture of the offence and, consequently, largely helps to understand its characteristics, as well as the behaviours of the offender and the victim.

A substantive criminal and criminological study of a robbery is as much essential at the stage of identifying the perpetrator, as it is for the legal qualification of the offence. On the one hand, substantive criminal law fulfils the function of ensuring justice and protection and, on the other hand, the function of protecting liberties and rights. The latter function is related to the appropriate subsumption. One postulate that, following these deliberations, may be put forward to representatives of prosecution and judicial services alike is that both prosecutors and judges

should apply unified interpretations of the characteristics of this type of generic offence, which will help to efficiently and effectively apply the provision within Art. 280 of the Criminal Code. This outlook was the starting point for empirical studies.

The central hypothesis is that the existing regulation within Art. 280 of the Criminal Code needs not to be amended, whilst it is much more important to fine-tune the perception of the characteristics of the offence in everyday practice, especially in the face of the discrepant and inappropriate application of the said regulation by trial authorities. For the purposes of this paper employed were the following methods: dogmatic, analytic, statistic, court files research.

The doctoral dissertation is comprised of 5 chapters. Given its interdisciplinary, criminal legal and criminological nature, the opening Chapter I is highly methodological in nature. It serves as an introduction to the research, identifies the research problem, research area and purpose, methodology, research techniques and instruments. To put first things first, the deliberations concerning the subject matter are preceded by Chapter II which outlines the history of the offence of robbery. Chapter III presents a dogmatic analysis of the juridical structure described in Art. 280 of the Criminal Code. It accommodates the issues related to analysing the statutory characteristics of the criminal act within Art. 280 of the Criminal Code, in particular the nature of legal interest and how it is approached in the case of robbery, assessing the seriousness of the offence (in particular the issues of causing the victim to lose conscience or become defenceless by using violence or threatening to use violence, or of understanding the notion of other dangerous weapon or incapacitating agent), as well as the characteristics and culpability of the offender. Other issues in this chapter are related to the construction of Art. 283 of the Criminal Code, and in particular to how robbery is approached as a case of minor gravity, or a privileged type of offence. Also, this chapter lists the criteria supporting the assumption that robbery is indeed a case of minor gravity. These are followed by deliberations on concurrent offences and statutory provisions in this respect. The last part of this chapter covers the issues of criminal complicity and discusses principals and accessories in robbery from the angle of perpetration, attempt, and preparation, i.e. all the stages of an offence identified in the criminal code, as well as the issue of the extent of punishment for each type of complicity. The said chapter ends with considerations of the statutory sentencing levels and penal measures, and the legal nature of the solution laid down in Art. 37b of the Criminal Code. These general thoughts

on the statutory sentencing levels also touch upon the issue of an optimum sentence for an offence of robbery.

Chapter IV presents the dynamics and structure of the offence within Art. 280 of the Criminal Code, and the structure and dynamics of the actual sentencing levels in Poland and other EU States in the period 2008-2015. Not less significant for these issues are the deliberations on the range of statutory sentencing levels for an offence of robbery, as compared with the criminal laws of selected Member States of the European Union. Another crucial component of the dissertation is the proposal to extend the range of criminalisation of robbery so that it incorporates the behaviour of the offender, i.e. whether he committed the offence with grievous cruelty, or caused death or grievous harm. Despite the *de lege ferenda* proposal, none of the chapters of the dissertation is titled in this way. This is so, because this formulation was a logical consequence of the ongoing comparative legal studies and court records research.

Chapter V presents the results of the survey of criminal cases validly concluded in the years 2010-2015 in the No. 4 and No. 18 Criminal Departments of the Regional Court in Łódź. Its purpose was to learn the personality profiles of offenders, etiology of unlawful behaviours, as well as the profiles of victims to the offence. The focus was also on the role of the victim in the genesis of the offence: traits of victimisation, causative impact of the victim, relationships and interactions between the victim and the perpetrator. The knowledge of social and personality determinants of offenders and victims may help to get an insight into the etiology of the offence of robbery. Also important was to confront the characteristics of the offence and its legal qualification defined in the indictment against that finally ascertained by the court, to present the subsequent stages of the offence and forms of participation in crime, place and time of the offence, and the target of crime. Another key task of the court records research was to identify the types of guilty acts most frequently committed by perpetrators of robberies with a view to unlawfully stealing property.

The outcome of the research into the indictments and final descriptions of the offences and their legal qualifications by the court will help to, e.g. arrive at the answer to the overarching research hypothesis posed in the dissertation. The author has intentionally selected those criminal cases in which, according to the author, the indictments and judgements, as well as the reasons for judgements, demonstrated certain nonconformities in the interpretation of the characteristics

of the offence of robbery, which provided the ground for possible allegations of a breach of the substantive law through its erroneous interpretation.

The entire dissertation ends with the conclusions which thoroughly summarise the research and formulate the relevant *de lege lata* and *de lege ferenda* proposals.