



# **COMPARATIVE LEGAL ANALYSIS OF INTENTIONAL GRIEVOUS BODILY HARM: THE REPUBLIC OF UZBEKISTAN IN THE CONTEXT OF INTERNATIONAL EXPERIENCE**

**Bakhodirova Sabina Ulugbek kizi**

Doctoral student at Tashkent state university of law  
[sabina.mamadjanova@gmail.com](mailto:sabina.mamadjanova@gmail.com)

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| <b>Received:</b> 11 <sup>th</sup> May 2024<br><b>Accepted:</b> 7 <sup>th</sup> April 2024 | <p>In the modern world, the study of the legal systems of different countries in the context of international experience is becoming increasingly relevant</p> <p>This article is devoted to a comparative analysis of the criminal law aspects of intentional grievous bodily harm in the Republic of Uzbekistan and foreign countries. The author of the article examines the norms of the Criminal Code of the Republic of Uzbekistan defining such crimes and compares them with approaches and standards applied in other countries.</p> <p>The analysis allows us to identify general trends and unique features of the criminal legislation of Uzbekistan in this area. Special attention is paid to the issues of qualification of crimes, types of responsibility and penalties applied.</p> <p>A comparative analysis of the legislation and practice of other countries allows the author of the article to draw conclusions about possible ways to improve the criminal justice system in the Republic of Uzbekistan. The results of the study can be used to develop proposals for amendments and additions to the current legislation.</p> |

**Keywords:** intentional grievous bodily harm, bodily harm, comparative legal analysis, crime, responsibility, penalty, legislation, judicial proceedings.

## **INTRODUCTION**

In today's world, where globalization and international cooperation are playing an increasingly important role, the issues of combating crimes against health are becoming particularly relevant. In this regard, the study of the criminal law aspects of such crimes in the context of international law becomes extremely necessary.

This article analyzes the legislation of Uzbekistan regulating the infliction of intentional grievous bodily harm. The author sets tasks for himself:

To identify general trends and unique features of the criminal law regulation of this sphere in Uzbekistan;  
Evaluate the effectiveness of existing legal mechanisms;  
To compare the criminal law provisions of Uzbekistan with international experience;  
Identify possible areas for improving the criminal justice system.

The analysis covers the infliction of intentional grievous bodily harm. The author compares the legislation of Uzbekistan with the legal systems of several foreign countries, including European countries and a number of Asian countries.

## **MATERIALS AND METHODS**

General scientific and special methods such as historical systematic, analytical, comparative legal and specifically sociological were used to conduct this research.

## **THE RESULTS OF THE STUDY**

Health is a natural gift and value for a person, transmitted genetically and being a key object of protection in the criminal law context. The right to health protection is one of the fundamental human rights enshrined and guaranteed by the Constitution of the Republic of Uzbekistan.

According to E.V. Bezruchko, in the modern world, health is primarily interpreted as an object of the basic, inalienable human right to health protection, and it is considered as a subjective right of the individual, which therefore generates certain obligations of the state to protect and implement this right. [1].

The concept of "violence" is quite closely associated with the concept of health. L.D. Gaukhman, defining violence, identifies factual and legal signs [2]. It includes both objective and subjective criteria in the actual signs, and highlights the illegality and public danger of the action among the legal signs.

The Republic of Uzbekistan, as a subject of the world community, also faces the need to effectively combat crimes against health. A comparison of the criminal law aspects regulating this area in Uzbekistan with international experience makes it possible to identify common trends and differences in approaches to the settlement of such offenses.



An important aspect is also the consideration of responsibility and penalties provided for the commission of these crimes. International experience can offer a variety of liability models that can serve as a source of inspiration for improving existing legislation.

A comparative legal analysis of the criminal aspects of intentional grievous bodily harm in the Republic of Uzbekistan and Germany reveals interesting differences and similarities in approaches to regulating this category of crimes. There is a separate article in the German Criminal Code for causing fatal bodily injury. As for our legislation, the infliction of intentional grievous bodily harm resulting in the death of a person is not highlighted in a separate article, but is fixed in paragraph "d" of part 3 of Article 104 of the Criminal Code.

Let's consider the differences in the features of the article concerning intentional grievous bodily harm.

According to article 104 of the Criminal Code of the Republic of Uzbekistan, intentional grievous bodily harm has the following characteristics:

- life-threatening at the time of causing or;
  - resulting in loss of vision, speech, hearing or any organ;
  - or the complete loss of the organ of its functions, mental or other health disorder,
  - combined with a permanent loss of general working capacity of over thirty-three percent;
  - or termination of pregnancy;
  - or indelible disfigurement of the body;
  - in the absence of signs of a crime provided for in Article 126-1 of this Code (Family (domestic) violence).
- Article 226 of the German Criminal Code, fixing responsibility for grievous bodily harm, highlights the following features inherent in this crime:
- loss of vision in one or both eyes, hearing, the gift of speech or the ability to procreate;
  - loss of an important limb or the ability to use it,
  - to a large extent disfigurement or acquisition of a chronic disease, paralysis, mental illness or inferiority.
- [3].

Summarizing the above, comparative legal analysis reveals both similarities and differences between the criminal law aspects of crimes against health in the Republic of Uzbekistan and Germany. Understanding these differences helps both countries to improve their laws and judicial processes in the field of criminal law and the protection of citizens' rights.

An analysis of the criminal law aspects of crimes against health in the Republic of Uzbekistan and the United States allows us to identify differences and common features in approaches to regulating this category of crimes.

There is a wide range of health crimes in the United States that can be prosecuted. Some of the typical crimes in this category include:

1. Grievous bodily harm includes crimes that result in serious physical injury, such as bone fractures, mutilation or other serious injuries.
2. Assault with a deadly weapon: Committing an attack with a firearm or other deadly weapon that may result in serious injury or death.
3. Batting (violent beating): This crime includes intentional physical attacks that may result in bodily injury.
4. Harassment: This includes threats and attacks aimed at harming the health and safety of another person.
5. Threats with the use of dangerous substances: Crimes related to the use or threat of use of dangerous substances that may cause harm to health.
6. Crimes in the field of public health violations: These may be crimes related to the spread of infectious diseases or a violation of the health of society as a whole. [4].

These crimes are regulated by various articles of the U.S. Criminal Code and may involve different types of penalties depending on the seriousness of the crime committed. Comparative legal analysis allows us to identify similarities and differences in the criminal law aspects of crimes against health in the Republic of Uzbekistan and the United States. Both strive to protect the health of citizens, but may have different approaches to the definition, qualification and punishment of such crimes.

Uzbekistan and Norway have criminal laws aimed at protecting the health of citizens. In both countries, crimes against health are regulated by criminal codes that provide for liability for actions harmful to health.

Chapter 25 of the Norwegian Criminal Code establishes liability for violent crimes.

Article 271. Physical attack

Article 272. Violent physical attack. When determining whether a physical attack is violent, special attention is paid to whether it resulted in severe pain, injury or death, as well as whether it was

- a. committed without reason and had the character of an attack,
- b. committed against a helpless person,
- c. had the character of violence,
- d. was committed by several persons acting together,
- e. was motivated by skin color, nationality or ethnic origin, religion, worldview, sexual orientation or impaired functional ability of the victim, or
- f. It was committed using a knife or other particularly dangerous means. The second paragraph of section 271 applies accordingly.



Article 273. Bodily injury. A prison sentence of no more than six years is applied to a person who has damaged the body or health of another person, deprived another person of physical ability, or caused despair or a similar condition in another person.

Article 274. Infliction of severe bodily harm. The punishment for severe bodily injury is imprisonment for a maximum of 10 years. In determining whether bodily injuries are severe, special attention is paid to whether they led to an incurable defect or injury, illness or temporary disability, severe pain, significant harm or death, and whether they were

- a. committed without reason and had the character of an attack,
- b. committed against a helpless person,
- c. had the character of violence,
- d. committed by several persons acting together,
- e. were motivated by skin color, nationality or ethnic origin, religion, worldview, sexual orientation or impaired functional ability of the victim, or
- f. were committed using a knife or other particularly dangerous means. A person who has caused significant harm to the health or body of another person is liable to imprisonment for a term not exceeding 15 years.

Article 284. Genital circumcision. A prison sentence of no more than six years applies to any person performing a procedure on a woman's genitals that damages or permanently alters them. Recovery after genital circumcision falls under the same responsibility.

Consent does not exempt from punishment.

A fine or imprisonment of no more than one year is applied to employees and employees of kindergartens, juvenile services, social services, health and care, schools, pre- and after-school care services and faiths who do not take measures to prevent genital circumcision by warning the police or otherwise. The same applies to elders and spiritual leaders of faiths. The duty of prevention extends independently of any confidentiality obligations. Such an offense is not punishable if genital circumcision has not been performed and no criminal attempts have been made to do so.

Article 285. Severe genital circumcision. The punishment for enhanced genital circumcision is imprisonment for a maximum of 15 years. In determining whether genital circumcision is enhanced, special weight should be given to whether the procedure has led to:

- a. illness or prolonged inactivity;
- b. incurable defect, defect or injury, or
- c. death or significant harm to health or the human body.

Article 286. Violence against particularly vulnerable occupational groups. Any person who uses violence to influence the work of a member of a particularly vulnerable professional group is liable to a fine or imprisonment for a maximum of three years.

"A particularly vulnerable professional group" means:

- a. medical personnel providing medical care for medical reasons,
- b. persons providing public passenger transport such as rail, subway, tram, bus, plane, taxi or ferry, and
- c. persons responsible for primary education.[5].

Based on this, we can observe that a distinctive feature of Norwegian legislation is the presence of two articles concerning harm to the genitals. The existence of responsibility for the same crime is also observed in German law.

In addition, in Norway there is also responsibility for violence against particularly vulnerable professional groups, which is highlighted in a separate article, which includes medical personnel, persons providing public passenger transport, persons responsible in the educational field.

Recently, attacks on medical workers have been very often observed in the Republic of Uzbekistan, which is the reason for criminalizing such an act based on international experience.

Comparative legal analysis of the criminal legal aspects of crimes against health in the Republic of Uzbekistan and China may include consideration of legislative acts, definitions of crimes, liability, penalties and judicial procedures.

Article 95. Grievous bodily harm means one of the following injuries:

- 1) mutilation, deprivation of human limbs or disfigurement of the face;
- 2) loss of hearing, vision or loss of their functions by other organs;
- 3) other serious health disorder.

Article 123. Violence against persons on board an air vehicle that has created a threat to flight safety, but has not entailed serious consequences, is punishable by imprisonment for up to 5 years or short-term arrest; the same act, which entailed serious consequences, is punishable by imprisonment for more than 5 years.

Article 248. Warders of prisons, premises for arrested persons, houses of pre-trial detention, who carry out beating of prisoners and apply cruel corporal punishment, under aggravating circumstances, are punishable by imprisonment for up to 3 years or short-term arrest, the same acts resulting in injury to human health or death are punished in accordance with articles 234 and 232 of this Code, based on the maximum severe penalties provided for in these articles.



A warden who forces prisoners to beat other prisoners or to use cruel corporal punishment against other prisoners is responsible in accordance with part one of this article.

Article 308. Beating a witness for the sake of settling accounts with him is punishable by imprisonment for up to 3 years or short-term arrest; in aggravating circumstances, it is punishable by imprisonment for a term of 3 to 7 years. [6].

Based on the above, it can be seen that in China, as well as in Norway, there are articles specialized in subjects regarding crimes against health. For example, violence against persons on board an air vehicle flying, in addition, beating a witness to a crime.

### **Conclusions**

The comparative legal analysis of the criminal legal aspects of crimes against health in the Republic of Uzbekistan, Germany, the USA, Norway and China revealed a number of significant differences and general trends in the legal regulation of this category of crimes. In the Republic of Uzbekistan, crimes against health are regulated by legislation providing for sanctions in the form of fines and imprisonment. The legislation seeks to protect the health of citizens and maintain public order. The system of criminal penalties includes a wide range of measures to influence persons who have committed crimes against health.

In Germany, crimes of this category also fall under the influence of the Criminal Code, which provides for various types of liability, including fines and imprisonment. An important element is to take into account circumstances, such as the presence of aggressive motives, causing serious harm to health or the use of dangerous objects.

In the United States, crimes against health are regulated by state and federal law. There is a wide range of criminal penalties, including imprisonment and fines. The laws seek to effectively detail the types of crimes and apply fair penalties.

In Norway, special attention is paid to the characteristics of committed crimes against health. The criminal punishment system strives for an individual approach, taking into account the circumstances of each specific case.

China has strict legislation aimed at maintaining public order and protecting the health of citizens. Crimes against health are subject to the Criminal Code, which provides for a wide range of criminal penalties depending on the characteristics of the crime.

Thus, the analysis allows us to conclude that there is a variety of approaches to the criminal law regulation of crimes against health in the countries considered. However, the general trend is the desire to ensure

effective protection of citizens' health and maintenance of public safety through a system of balanced criminal penalties.

Comparative legal analysis allows us to identify similarities and differences in the criminal law aspects of crimes against health in the Republic of Uzbekistan and China. Both countries strive to protect the health of citizens, but may have different approaches to the definition, qualification and punishment of such crimes. The specifics of legal systems and cultures can influence the application and interpretation of laws in each country.

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