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## Comparative Legal Analysis Of Legislation Related To Crimes Against Health

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### ABSTRACT

His article provides a comparative analysis of the norms of the Criminal Code of the Republic of Uzbekistan related to crimes against health, investigates in detail and reveals inconsistencies in the names in the content in the edition of the Russian and Uzbek languages. As a result of the research, proposals and recommendations were developed to eliminate the identified collision situations.

### KEYWORDS

Willful bodily injury, termination of pregnancy, permanent disfigurement of the body.

### INTRODUCTION

As you know, the task of building a democratic state in Uzbekistan based on the rule of law requires the creation of an effective mechanism for ensuring human rights and freedoms in all spheres of life. In this process, the improvement of criminal and criminal procedure legislation is the main goal of criminal law policy as a priority of ongoing

reforms to democratize society and modernize the country.

The message of the President of the Republic of Uzbekistan to the deputies of the Oliy Majlis calls for further improvement and liberalization of criminal legislation, since the criminal and Criminal procedure codes were

adopted almost 25 years ago and did not meet the requirements of today [1].

It should be noted that the criminal situation, especially the problem of crimes against health, has been thoroughly studied in recent years not only by law enforcement agencies, but also by representatives of various fields of science. The main reason for this interest is the relevance of the problem, its frequent manifestation in life. It is known that the number of crimes against health in the world is growing today, but this negative phenomenon is changing its character and acquiring new qualities. A comparative analysis of the norms of the Criminal code of the Republic of Uzbekistan concerning crimes against health in the Russian and Uzbek languages showed that there are a number of inconsistencies in their names and content. In particular, article 104 of the Criminal code in the Russian version is entitled "intentional grievous bodily harm", and in the Uzbek version - "causing intentional bodily harm". It turns out that there is a difference in the title of article 104 of the criminal code in Russian and Uzbek. If you correctly translate the phrase "intentional grievous bodily harm" from Russian to Uzbek, it means "intentional grievous bodily harm". On the contrary, the Uzbek phrase "kasddan badanga ogir shikast etkazish" is translated into Russian as "intentional infliction of serious bodily harm". This indicates that the legislator correctly used the word "causing" in the title of article 104 of the criminal code in Uzbek. This is due to the fact that in order to recognize a case under article 104 of the criminal code as a crime, the act must be committed by another person. This factor is called "intentional serious bodily injury" in the current version of article 104 of the criminal code of the Russian Federation, in which the word "infliction" is omitted, which is incompatible with its content.

In connection with the above, it is proposed to add the word "infliction" to the Russian title of this norm of the criminal code and call it "intentional infliction of serious bodily harm".

Russian Russian, article 105 of the Criminal code provides for "intentional moderate bodily harm" in Russian, "intentional infliction of moderate bodily harm" in Uzbek, article 109 in Russian provides for "intentional slight bodily harm", and in Uzbek "kasddan badanga yengil shikast etkazish". At the same time, as in our proposal to change the title of articles 104 and 109 of the Criminal code, the words "infliction" and "intentional infliction of moderate bodily harm" and "intentional infliction of light bodily harm" were added.

It is noteworthy that in other articles contained in the legislation in the section on crimes against health, in particular, in article 106 "Causing intentional serious or moderate bodily injury in a state of strong mental agitation", in article 107 "Causing intentional serious bodily injury when exceeding the necessary measures of detention of a person who has committed a socially dangerous act", in article 108 "Causing intentional serious bodily injury when exceeding the necessary measures of detention of a person who has committed a socially dangerous act", article 111, "Negligent infliction of moderate or serious bodily harm", reflects the term "infliction".

## RESULTS AND ITS DISCUSSION

In our opinion, this is justified in all respects. The current criminal law and the "rules of forensic medical examination of the severity of injuries" approved by the Ministry of health establish criteria for determining the severity of injuries, which can be seen in the following:

- 1) The danger to life;

- 2) Real damage to the health;
- 3) Complete loss of professional ability to work;
- 4) Aesthetic criteria.

However, it should be noted that a comparative analysis of the requirements of the criminal law and the bylaws mentioned above to determine the severity of injuries found that there are a number of inconsistencies between them. In particular, in the disposition of the first part of article 104 of the Criminal code, the legislator used the phrase "xomilaning tushishi". However, The order No. 153 of the Ministry of health on approval Of the "rules of examination" uses the phrase related to miscarriage – "termination of pregnancy". The analysis showed that from a medical point of view, "abortion" includes "miscarriage" in its context[2]. In other words, "abortion" means termination of pregnancy in the event of an injury, such as miscarriage, death in the womb, or premature birth[3]. However, it is noteworthy that the term we are studying is defined in the Russian version of article 104 of the criminal code as "termination of pregnancy". Given that the Uzbek-Russian medical dictionary "amila" is translated as "fruit" and "omeaning teshisi" – "miscarriage", and in Russian version of the criminal code uses the phrase "termination of pregnancy (militarising utilise)", it was suggested in the first part of article 104 of the criminal code the words "omeaning teshisi" with "militarising utilise".

Indelible disfigurement of the body, specified in part one of article 104 of the Criminal code, is understood as an unpleasant, shocking appearance of the human face, which cannot be eliminated without surgical intervention (including mechanical, firearms, aggressive substances, etc.) - scars, notches, bruises on

the body, detachment of the nose, lips, ears, and other defects). The issue of disfigurement is within the competence of the investigating authorities and the court and is resolved taking into account the aesthetic ideas that exist in society. At the same time, the fact that these wounds can be hidden by clothing, hair and other means should not affect the decision to consider them ugly[4].

Note that the Uzbek version of the first part of article 104 of the criminal code States "indelible disfigurement of the body". However, we see that this expression sounds different in the normative legal acts concerning expertise. In particular, in documents approved by the order of Ministry of health, the phrase "a lasting disfigurement of the body" in the criminal law reflected in the value of "tanning sillimaniyan barbarously"[5]. The term "Barbaros" literally means "lined face". The term "body" means "body, torso". In turn, the lexical meaning of the term body (body) means the surface of the body, the outside of the body. It is therefore inappropriate to use the term "barbarous" in words that use the term "body." In our opinion, the use of the phrase "tanning sillimaniyan junclassik" in such cases is more appropriate.

The above analysis also raises the question of whether the legislative body in this case unreasonably expanded the scope of the crime of intentionally causing serious harm to health, taking into account not only the person's face, but also his body. This is due to the fact that the laws of foreign countries, particularly in the first part of article 111 of the Criminal code of the Russian Federation, we study the phrase sounds like "indelible disfigurement of the face", that is, the "using TotalMedia darajada junclassik". If we compare the legislation of Uzbekistan and the Russian Federation on this issue, we can see

that they used only the word "face" and did not use the word "body". This is the issue that is currently causing controversy in the theory of criminal and criminal procedure law of the Russian Federation. It is noteworthy that most scientists in their work justify the need to include the words "body" in the first part of article 111 of the criminal code[6]. In particular, O. S. Viktorov is convinced that other parts of the victim's body, especially the neck, will cause constant pain, no less than the face[7].

E. V. Bezruchko, in turn, considers the opinion of O. S. Viktorov incomplete and suggests using the concept of not only indelible deterioration of the person's face or neck, but also indelible deterioration of any part of the body in the expression of intentional infliction of serious harm to health[8].

## CONCLUSIONS

Indeed, if you think about the details, you can not say that the victim of a thermal burn suffers less spiritually than a person with an incurable ugly face. In this case, a person cannot appear in front of people without covering their ugly arms, legs, or neck. This category of people will not be able to come to the beach, pool, etc. This, as noted above, negatively affects his mental state no less than the irreparable ugliness of his face. Based on the above factors, the concept of "indelible disfigurement of the body" in the first part of article 104 of the criminal code of the Russian Federation was proposed to be replaced by "indelible disfigurement of the body and face". In addition, the analysis showed the need to eliminate the contradiction between the current criminal legislation and the normative legal acts adopted by the Ministry of health.

In conclusion, it should be noted that special attention should be paid to the fact that the Uzbek and Russian versions of draft laws coincide in content, and that by-laws are developed only on the basis of legal requirements. This is due to the fact that the ongoing reforms to further improve and liberalize the current criminal and criminal procedure legislation, as well as the full protection of human rights and freedoms in our society, first of all, require a comprehensive improvement of our laws.

## REFERENCES

1. Message of the President of the Republic of Uzbekistan to the Oliy Majlis of the Republic of Uzbekistan dated December 28, 2018. // [www.xs.uz/](http://www.xs.uz/)
2. "Court-tibbiy-burosiring tuzilmarali expertise and linklar stkazish rules" 2012 yil 01 June 153-sonli buyruk. b-58 <https://lex.uz/docs/1861798>
3. Resolution of June 27, 2007 No. 6 of the Plenum of the Supreme court of the Republic of Uzbekistan On judicial practice in cases of intentional bodily harm-Vol. 2007-P. 7 <https://lex.uz/docs/1592419>
4. Explanatory dictionary. Edited by A. Madvaliev. Tashkent-2008 B.-133
5. Ordan A.V., Kirdyashkin S. N. Expert and forensic service of the Ministry of internal Affairs of Russia 95 years // Actual problems of law in Russia and CIS2015: materials of the XVII international conference. scientific-practical Conf. Chelyabinsk, 2015. P. 347.
6. <http://cyberleninka.ru/article/n/istoriya-stanovleniya-i-pravovaya-reglamentatsiya-kriteriev-opredeleniya-stepeni-tyazhesti-vreda-prichinennogo-zdorovyu/viewer>
7. Bezruchko E. V. Criminal liability for causing harm to human health. dis ... Cand. legal Sciences. - Rostov-n/D, 2001, Pp. 66-67.