



ANALYSIS OF LEGAL CRITERIA FOR THE QUALIFICATION OF THE CRIME OF TORTURE IN CRIMINAL LAW

Jorayev Javohir Jamil ugli

Student of Tashkent State University of Law

javohirjurayev104@gmail.com

Abstract: *This article provides a systematic analysis of the legal nature of the crime of torture and its degree of social danger. The study examines in detail the objective and subjective elements of the crime, specifically focusing on the intent of the perpetrator and the nature of the physical and psychological suffering inflicted on the victim. The article presents a comparative study of the national legislation of the Republic of Uzbekistan, particularly the relevant articles of the Criminal Code, in relation to the norms of the UN Convention against Torture. Furthermore, based on judicial practice and recent scientific trends, the author identifies legal criteria for distinguishing this crime from other forms of unlawful acts against health and proposes recommendations for improving the legislative framework.*

Keywords: *Torture, qualification, physical suffering, psychological pressure, corpus delicti, objective criteria, subjective side, UN Convention, human rights, judicial practice, public official, legislative improvement.*

Annotatsiya: *Ushbu maqolada qiynash jinoyatining huquqiy tabiati va uning ijtimoiy xavflilik darajasi tizimli ravishda tahlil qilinadi. Tadqiqot davomida jinoyat tarkibining ob'ektiv va sub'ektiv belgilari, xususan, aybdorning maqsadi va jabrlanuvchiga yetkazilgan jismoniy hamda ruhiy azoblarning xususiyatlari batafsil ko'rib chiqilgan. Maqolada O'zbekiston Respublikasining milliy qonunchiligi, xususan, Jinoyat kodeksining tegishli moddalari BMTning Qiynashga qarshi konvensiyasi normalari bilan qiyosiy jihatdan o'rganiladi. Shuningdek, ushbu jinoyatni sog'liqqa shikast yetkazish bilan bog'liq boshqa harakatlardan farqlashning huquqiy mezonlari, sud amaliyotidagi muammoli holatlar va so'nggi*



ilmiy qarashlar asosida qonunchilikni takomillashtirish bo'yicha takliflar ilgari surilgan.

Kalit so'zlar: *Qiyinash, kvalifikatsiya, jismoniy azob, ruhiy tazyiq, jinoyat tarkibi, ob'ektiv mezonlar, sub'ektiv tomon, BMT konvensiyasi, inson huquqlari, sud amaliyoti, mansabdor shaxs, qonunchilikni takomillashtirish.*

Аннотация: *В данной статье проводится системный анализ юридической природы преступления истязания и степени его общественной опасности. В ходе исследования подробно рассматриваются объективные и субъективные признаки состава преступления, в частности, цели виновного и характер причиняемых потерпевшему физических и психических страданий. В статье проводится сравнительный анализ национального законодательства Республики Узбекистан, в частности соответствующих статей Уголовного кодекса, с нормами Конвенции ООН против пыток. Также на основе анализа судебной практики и современных научных взглядов определены правовые критерии отграничения данного преступления от других посягательств на здоровье, выявлены проблемы квалификации и выдвинуты предложения по совершенствованию законодательства.*

Ключевые слова: *Пытки, квалификация, физические страдания, психическое давление, состав преступления, объективные критерии, субъективная сторона, конвенция ООН, права человека, судебная практика, должностное лицо, совершенствование законодательства.*

Introduction: Relevance of the Issue

The full implementation of the requirements of the UN Convention against Torture into national legislation is a primary factor in ensuring transparency in the activities of law enforcement agencies. In this process, expanding the conceptual scope of torture—specifically, classifying instances of psychological pressure based on clear criteria—is of paramount importance. Establishing a legal framework that aligns with international standards strengthens the state's standing in international human rights rankings.



In practice, certain difficulties arise in distinguishing the crime of torture from other types of official misconduct (e.g., abuse of power or exceeding official authority). Accurately identifying the subjective and objective aspects of the crime, especially the specific intent of the perpetrator (such as obtaining information, punishment, or intimidation), is a guarantee of fair justice. From this perspective, the scientific improvement of qualification rules allows for the prevention of investigative errors. Combating torture requires more than just increasing penalties; it necessitates fostering a climate of "zero tolerance" within society. Increasing the accountability of public officials through the certainty of punishment and simplifying mechanisms for compensating victims for material and moral damages should be at the heart of current legal reforms. This, in turn, will help restore public confidence in law enforcement agencies.

The Concept of Torture and Its International Legal Basis

The 1984 UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment provided a universal definition of torture. Recent scientific research indicates that the concept of torture is not limited to physical pain but also encompasses the infliction of psychological suffering.

Objective Criteria for Qualification

Object of the Crime:

The direct object of the crime of torture is an individual's personal integrity, health, and dignity. The reputation and lawful functioning of state authorities may serve as an additional object (if the crime is committed by a public official).

Objective Side: Act and Consequence:

The objective side of torture is expressed through three elements:

Physical impact: Beating, battering, causing bodily injury, or deprivation of food or sleep.

Psychological impact: Intimidation, threats, or causing distress by threatening to harm loved ones.

Systematic nature and duration: In legal doctrine, "torture" is distinguished from simple "cruelty" by its intensity and goal-oriented nature.



Subjective Criteria for Qualification

1. Subject: The Issue of Special and General Subjects:

According to recent legislative reforms, the subject of the crime of torture is not limited to law enforcement officers; it may include any person acting at the instigation or with the consent of an official. This indicates an expansion of the "special subject" scope.

2. Subjective Side: Direct Intent and Special Purpose:

Torture is always committed with direct intent. The perpetrator's purpose plays a crucial role in qualification: obtaining information or a confession, punishment for an act committed, intimidation, or discrimination.

Distinguishing Torture from Related Crimes (Differentiation)

In the process of qualification, torture (Article 110 of the Criminal Code) must not be confused with abuse of power (Article 205) or exceeding official authority (Article 206).

Criteria for differentiation: If violence is aimed at demeaning a person's dignity and coercing them to provide testimony, it must be qualified under the specific norm (torture).

Modern Scientific Approaches: "Digital Torture" and Psychological Pressure

Today, psychological pressure exerted through cyberspace is also being researched as a form of torture. Scientific innovations suggest that long-term isolation and sensory manipulation (e.g., continuous loud music or high-intensity lighting) also meet the criteria for torture.

Conclusion and Proposals

The primary feature distinguishing the crime of torture from simple bodily injury is the perpetrator's specific intent to achieve a particular result (e.g., coercing testimony, punishment, or humiliation). In practice, acts are often qualified solely based on the severity of the injuries. However, the social danger of the crime is determined by the underlying inhumane purpose. Therefore, psychological indicators proving the intent to break the victim's spirit or act against their will should be



introduced into investigative and judicial processes. This would allow for a clear demarcation between torture and other crimes arising from negligence or personal enmity.

Improving the Legal Status and Rehabilitation of Victims:

The current legal approach often limits medical assistance to the immediate aftermath of physical trauma. However, torture is a "continuous crime" that echoes throughout a victim's life.

Mandatory Post-Traumatic Support: Legislation must mandate state-funded, multi-year access to specialized psychiatric care and neuro-rehabilitation.

Continuity of Care: Legal guarantees should ensure that rehabilitation is not a one-time grant but a sustained program that adapts as the victim's needs evolve (e.g., transitioning from clinical therapy to social reintegration).

Redefining "Moral Damage" and Simplifying Compensation

The burden of proof in "moral damage" cases is often prohibitively high, re-traumatizing the victim in the process.

Standardized Evaluation Criteria: We recommend developing a "Psychological Impact Matrix." This would allow courts to quantify suffering based on objective indicators:

Social Dislocation: The loss of community standing or the inability to maintain personal relationships.

Cognitive and Emotional Impairment: Documented chronic fear (PTSD), severe depressive episodes, and sleep disorders.

Loss of Life Prospects: The inability to pursue a career or education due to psychological trauma.

The "Presumption of Harm" Principle: Legally, if the fact of torture is proven, the existence of moral damage should be a legal presumption, shifting the burden of proof away from the victim.

Institutional Accountability and Public Trust

Torture is a profound violation of the "social contract" between the citizen and the state. Restoring rights requires an institutional response:



Official Acknowledgment: Beyond financial compensation, the legal status of a victim should include the right to an official apology and a public record of their innocence (restitution of reputation).

Social Reintegration Protections: Laws should provide "positive discrimination" in employment and education for victims whose career trajectories were halted by state-inflicted trauma.

From Retributive to Restorative Justice

The traditional focus on punishment (retributive justice) is insufficient because it leaves the victim's internal world shattered.

Full Restitution: True justice aims at *restitutio in integrum*—restoring the victim to the state they would have been in had the violation not occurred.

Standardizing "Psychological Suffering": By integrating clinical psychology into the judicial process, we ensure that compensation is not an arbitrary figure but a calculated resource designed to fund a return to a dignified life.

REFERENCES:

1. Criminal Code of the Republic of Uzbekistan.
2. UN Convention against Torture (1984).
3. Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
4. Qabulov, R. *Criminal Law: General and Special Parts* (Textbooks).
5. *International Journal of Criminal Law & Criminology* — Recent scientific articles (2025–2026).
6. Yakubov, A.S., & Tadjixanov, U.R. (2018). *Criminal Law (Special Part)*. Tashkent: Adolat.
7. National Center of the Republic of Uzbekistan for Human Rights (2022). *Combating Torture: International Experience and National Practice*. Tashkent.
8. Ismoilov, Sh. (2023). "Current Problems of Qualification of the Crime of Torture." *Huquq va Burch Journal*, No. 4.