

**TOSHKENT DAVLAT YURIDIK UNIVERSITETI
HUZURIDAGI ILMIY DARAJALAR BERUVCHI
DSc.07/13.05.2020.Yu.22.03. RAQAMLI ILMIY KENGASH**

TOSHKENT DAVLAT YURIDIK UNIVERSITETI

XUDAYKULOV FERUZBEK XURRAMOVICH

**JINOYAT TARKIBI OBYEKTIV TOMONINING NAZARIY
VA AMALIY JIHATLARI**

12.00.08 – Jinoyat huquqi. Kriminologiya. Jinoyat-ijroiya huquqi

**yuridik fanlar doktori (Doctor of Science) dissertatsiyasi
AVTOREFERATI**

Toshkent – 2023

Fan doktori (DSc) dissertatsiyasi avtoreferati mudariyasi

Оглавление автореферата диссертации доктора наук (DSc)

Content of the abstract of the dissertation of the Doctor of Science (DSc)

Xudaykulov Feruzbek Xurramovich

Jinoyat tarkibi obyektiv tomonining nazariy va amaliy jihatlari5

Khudaykulov Feruzbek Xurramovich

Theoretical and practical aspects of objective side of corpus delicti31

Худайкулов Ферузбек Хуррамович

Теоретические и практические аспекты объективной стороны состава преступления57

E'lon qilingan ishlar ro'uxati

Список опубликованных работ

List of published works62

**TOSHKENT DAVLAT YURIDIK UNIVERSITETI
HUZURIDAGI ILMIY DARAJALAR BERUVCHI
DSc.07/13.05.2020.Yu.22.03. RAQAMLI ILMIY KENGASH**

TOSHKENT DAVLAT YURIDIK UNIVERSITETI

XUDAYKULOV FERUZBEK XURRAMOVICH

**JINOYAT TARKIBI OBYEKTIV TOMONINING NAZARIY
VA AMALIY JIHATLARI**

12.00.08 – Jinoyat huquqi. Kriminologiya. Jinoyat-ijroiya huquqi

**yuridik fanlar doktori (Doctor of Science) dissertatsiyasi
AVTOREFERATI**

Toshkent – 2023

Fan doktori (DSc) dissertatsiyasi mavzusi O‘zbekiston Respublikasi Oliy ta’lim, fan va innovatsiyalar vazirligi huzuridagi Oliy attestatsiya komissiyasida B2021.4.DSc/Yu185 raqami bilan ro‘yxatga olingan.

Dissertatsiya Toshkent davlat yuridik universitetida bajarilgan.

Dissertatsiya avtoreferati uch tilda (o‘zbek, ingliz, rus (rezyume)) Ilmiy kengashning veb-sahifasida (www.tsul.uz) va “Ziyonet” Axborot-ta’lim portalida (www.ziyonet.uz) joylashtirilgan.

Ilmiy maslahatchi:

Abdurasulova Qumriniso Raimkulovna
yuridik fanlar doktori, professor

Rasmiy opponentlar:

Rustambaev Mirzayusup Xakimovich
yuridik fanlar doktori, professor

Kabulov Rustam
yuridik fanlar doktori, professor

Abduqodirov Sherzod Yoqubjonovich
yuridik fanlar doktori, dotsent

Yetakchi tashkilot:

O‘zbekiston Respublikasi Sudyalar Oliy kengashi huzuridagi Sudyalar oliy maktabi

Dissertatsiya himoyasi Toshkent davlat yuridik universiteti huzuridagi Ilmiy darajalar beruvchi DSc.07/13.05.2020.Yu.22.03. raqamli Ilmiy kengashning 2023-yil 15-dekabr kuni soat 14⁰⁰ dagi majlisida bo‘lib o‘tadi (Manzil: 100047, Toshkent shahar, Sayilgoh ko‘chasi, 35-uy. Tel.: +99871 233-66-36; faks: +99871 233-37-48, e-mail: info@tsul.uz).

Dissertatsiya bilan Toshkent davlat yuridik universiteti Axborot-resurs markazida tanishish mumkin (1200-raqam bilan ro‘yxatga olingan). (Manzil: 100047, Toshkent shahar Amir Temur ko‘chasi 13-uy. Tel.: +99871 233-66-36).

Dissertatsiya avtoreferati 2023-yil 30-noyabr kuni tarqatildi.

(2023-yil 30-noyabrdagi 11-raqamli reestr bayonnomasi).

A.A. Otajonov

Ilmiy darajalar beruvchi ilmiy kengash raisi, yuridik fanlar doktori, professor

M.Q. O‘razaliyev

Ilmiy darajalar beruvchi Ilmiy kengash kotibi, yuridik fanlar doktori, professor

N.S. Salayev

Ilmiy darajalar beruvchi ilmiy kengash huzuridagi Ilmiy seminar raisi, yuridik fanlar doktori, professor

KIRISH (fan doktori (DSc) dissertatsiyasining annotatsiyasi)

Dissertatsiya mavzusining dolzarbligi va zarurati. Dunyoda jinoyatchilikka qarshi kurashish va uni oldini olish global ahamiyat kasb etmoqda, chunki unga qarshi samarali choralarini ishlab chiqish, jinoyatchilik sabab va shart-sharoitlarini, jinoyatning ichki va obyektiv (tashqi) tomoni belgilarini o'rganish katta ilmiy va amaliy ahamiyatga egadir. Afsuski, so'nggi yillarda jinoyatlarning miqdor va sifat ko'rsatgichlari butun dunyo va aksariyat davlatlarda ortib bormoqda. Har 100 ming kishiga jinoyatchilik indeksi AQSHda – 49.2, Angliyada – 46.9, Germaniyada – 38, Fransiyada – 54.5, Italiyada – 47.3, Yaponiyada – 22.6, Rossiyada – 39.7, O'zbekistonda – 31.3 ballni tashkil etgan. So'nggi uch yilda O'zbekistonda jinoyatchilik darajasi 45.24%ga ko'tarilgan¹. BMT Giyohvand moddalar va jinoyatchilik bo'yicha boshqarmasi (UNODC) ma'lumotlariga ko'ra, har yili dunyoda yarim million jinoyat ijtimoiy xavfli shakl va usullari orqali sodir etiladi va ularning aksariyati odam o'ldirish bilan yakunlanadi². Xalqaro hujjatlarda jinoyat uchun javobgarlikni qonunda to'g'ri ifodalash, qonunni qo'llash amaliyotini imkon qadar qulaylashtirish maqsadida qonunchilikni qayta ko'rib chiqishga e'tibor qaratilmoqda³. Yuqoridagilar jinoyat qonunchiligini takomillashtirish, Jinoyat kodeksi normalarini to'g'ri qo'llash va adolatli jazo tayinlanishini ta'minlashning ustuvor vazifalar ekanligidan dalolat beradi.

Jahonda jinoyatchilikning oldini olish samaradorligini oshirishning muhim yo'nalishi sifatida jinoyatchilikka qarshi kurashishning jinoyat-huquqiy choralari, xususan, jinoyat qonuni normalarini takomillashtirish; jinoyat tarkibi obyektiv tomonining nazariy va amaliy jihatlari va unga oid ilmiy-nazariy qarashlarni o'rganish, jinoyat tarkibi obyektiv tomonining belgilarini tasniflash; jinoiy qilmishning shakllari(harakat yoki harakatsizlik)ning belgilarini, ijtimoiy xavfli oqibatning vujudga kelish tabiati, tuzilishi, jinoiy qilmish va oqibat o'rtasidagi sababiy bog'lanish va uni aniqlashda sababiyat zanjiri, shart-sharoitlar, mezon va qoidalarni tadqiq etish; jinoyat obyektiv tomoni belgilarining zaruriy va javobgarlikni og'irlashtiruvchi (kvalifikatsiyaviy) holat sifatida qilmishni kvalifikatsiya qilishdagi ahamiyati; jinoyat tarkibi obyektiv tomoni bo'yicha qilmishni kvalifikatsiya qilishning nazariy-amaliy masalalari va ular bilan bog'liq jinoyat qonunchiligi normalarini takomillashtirish; ularni qo'llash amaliyotini yaxshilash; jinoyatlarni dekriminalizatsiya qilish va jinoyat qonunchiligi va sud-tergov amaliyotini liberallashtirishning ilmiy va amaliy yechimini topish dolzarb ahamiyat kasb etmoqda.

Respublikamizda jinoyatchilikka qarshi kurashish, jinoyat qonunchiligini isloh qilish, jinoyat-huquqiy normalarni qo'llash amaliyotini yaxshilash huquqni muhofaza qiluvchi va sud organlari faoliyatida qonuniylik, fuqarolarning qonun oldida tengligi, demokratizm, insonparvarlik, odillik, ayb uchun javobgarlik, javobgarlikning muqarrarliligi prinsiplariga amal qilinishini kuchaytirishga katta e'tibor qaratilib, bu bo'yicha salmoqli ishlar amalga oshirilmoqda va mazkur soha

¹ https://www.numbeo.com/crime/country_result.jsp?country=Uzbekistan

² <https://www.unodc.org>, <https://wisevoter.com/country-rankings/violent-crime-rates-by-country>

³ <https://www.unodc.org>

muayyan darajada rivojlantirilib, qator maqsadli chora-tadbirlar amalga oshirilmogda. Xususan, “Jinoyat, jinoyat-protsessual va jinoyat ijroiya qonunchiligini takomillashtirish siyosatini izchil davom ettirish, jinoiy jazolar va ularni ijro etish tizimiga insonparvarlik tamoyilini keng joriy etish va “Qonun – ustuvor, jazo – muqarrar” tamoyilini bosh mezonga aylantirish”¹ mamlakat jinoyat qonunchiligini rivojlantirishning ustuvor yo‘nalishlari sifatida belgilanganligi, ushbu sohani tadqiq etish zarurati mavjudligidan dalolat beradi.

Dissertatsiya tadqiqoti O‘zbekiston Respublikasining “Xotin-qizlarni tazyiq va zo‘ravonlikdan himoya qilish to‘g‘risida”gi (2019) Qonuni, “Qurol to‘g‘risida”gi Qonuni (2019), O‘zbekiston Respublikasi Prezidentining “Sud-huquq tizimini yanada isloh qilish, fuqarolarning huquq va erkinliklarini ishonchli himoya qilish kafolatlarini kuchaytirish chora-tadbirlari to‘g‘risida”gi (2016), “Jamoat xavfsizligini ta‘minlash va jinoyatchilikka qarshi kurashish sohasida ichki ishlar organlari faoliyatini sifat jihatidan yangi bosqichga ko‘tarish chora-tadbirlari to‘g‘risida”gi (2021), “2022–2026 yillarga mo‘ljallangan Yangi O‘zbekistonning Taraqqiyot strategiyasi to‘g‘risida” (2022) Farmonlari, “Huquqbuzarliklar profilaktikasi va jinoyatchilikka qarshi kurashish tizimini yanada takomillashtirish chora-tadbirlari to‘g‘risida”gi (2017), “Jinoyat va jinoyat-protsessual qonunchiligi tizimini tubdan takomillashtirish chora-tadbirlari to‘g‘risida”gi (2018), “Huquqbuzarliklar profilaktikasi va jamoat xavfsizligini ta‘minlash sohasida kadrlar tayyorlash tizimini takomillashtirishga doir qo‘shimcha chora-tadbirlar to‘g‘risida”gi (2019) qarorlari va sohaga oid boshqa qonun hujjatlarining ijrosini amalga oshirishga muayyan darajada xizmat qiladi.

Tadqiqotning respublika fan va texnologiyalari rivojlanishining asosiy ustuvor yo‘nalishlariga mosligi. Mazkur tadqiqot respublika fan va texnologiyalar rivojlanishining I. “Axborotlashgan jamiyat va demokratik davlatni ijtimoiy, huquqiy, iqtisodiy, madaniy, ma‘naviy-ma‘rifiy rivojlantirishda innovatsion g‘oyalar tizimini shakllantirish va ularni amalga oshirish yo‘llari” ustuvor yo‘nalishi muvofiq bajarilgan.

Dissertatsiya mavzusi bo‘yicha xorijiy ilmiy tadqiqotlar sharhi². Jinoyat va jinoyat tarkibi obyektiv tomoni, ijtimoiy xavfli qilmish(harakat yoki harakatsizlik) va oqibat, jinoiy qilmish va oqibat o‘rtasidagi sababiy bog‘lanish, “corpus delicti” va “actus reus” konsepsiyalari va ularga oid jinoyat qonunchiligini takomillashtirishga qaratilgan ilmiy-tadqiqot ishlari BMTning Narkotik va jinoyatchilikka qarshi kurashish boshqarmasi (UNODC), Violence Research Centre University of Cambridge (Buyuk Britaniya), Case Western Reserve University (AQSh), Law Government Gun Crime Prevention Research Center (AQSh), Canadian Domestic Homicide Prevention Initiative (Kanada), M.V.Lomonosov

¹ O‘zbekiston Respublikasi Prezidentining “2022-2026-yillarga mo‘ljallangan Yangi O‘zbekistonning taraqqiyot strategiyasi to‘g‘risida”gi 2022-yil 28-yanvardagi PF-60-son Farmoni // O‘zbekiston Respublikasi qonunchilik ma‘lumotlar milliy bazasi, 21.04.2022 y., 06/22/113/0330-son // <https://lex.uz/docs/5841063>

² Dissertatsiya mavzusi bo‘yicha xorijiy ilmiy tadqiqotlar <https://www.unodc.org>, <https://www.vrc.crim.cam.ac.uk>, <https://case.edu>, <https://theses.bham.ac.uk>, <https://crimereasearch.org>, <http://cdhpi.ca>, <https://www.msu.ru>, <http://www.apu.fsln.su>, <https://msal.ru>, <https://csu.ru>, <https://www.rsu.edu.ru>, <http://vuit.ru>, <http://www.rudn.ru>, <https://www.kantiana.ru>, kazcrim@netmail.kz, http://crimas.ru va boshqa manbalar asosida amalga oshirilgan.

nomidagi Moskva davlat universiteti (RF), Rossiya xalqlar do'stligi universiteti (RF), Immanuil Kant nomidagi Boltiq federal universiteti (RF), Toshkent davlat yuridik universiteti kabi xalqaro, ilmiy va ta'lim muassasalarida amalga oshirilmoqda.

Jinoyat tarkibi obyektiv tomonining nazariy va amaliy jihatlarini o'rganishga oid tadqiqotlarda muayyan ilmiy natijalarga erishilgan. Jumladan, qilmishni jinoyat sifatida e'tirof etish, shaxsni, uning huquq va erkinliklarini, jamiyat va davlat manfaatlarini, mulkni, tabiiy muhitni, tinchlikni, insoniyat xavfsizligini jinoiy tajovuzlardan samarali muhofaza qilish uchun jinoyat qonuniga yangi normalarni kiritish va takomillashtirishda jinoyat tarkibining obyektiv tomoni muhim ahamiyat kasb etishi, jinoyatning ichki tomoni aynan uning tashqi tomoni belgilari orqali aniqlanishi, shuningdek jinoyatchilikka qarshi kurashish, jinoyat qonunchiligini isloh qilish va takomillashtirish, jinoyat-huquqiy normalarni qo'llash amaliyotini yaxshilash uchun mintaqaviy tadqiqotlar amalga oshirish lozimligi (BMT Narkotik va jinoyatchilikka qarshi kurashish boshqarmasi); jinoyat sodir etilishida uning tashqi tomoni belgisi bo'lgan usul – zo'rlik ishlatishning o'rni va ahamiyati (Violence Research Centre, University of Cambridge); "Actus Reus"(jinoiy qilmish) shaxsni jinoiy javobgarlikka tortishning obyektiv mezoni ekanligi (Case Western Reserve University); jinoyat huquqida sababiy bog'lanish (legal causation) muhim ahamiyatga ega ekanligi (Birmingham Law School University of Birmingham); jinoyat sodir etishda quoldan foydalanish va uning g'ayriqonuniy muomalasi omili mavjudligi (Law Government Gun Crime Prevention Research Center); jinoyat obyektiv tomoni to'g'risida umumiy ta'limot (Rostov davlat universiteti); Rossiya jinoyat huquqida qilmishning ijtimoiy xavfliligi (Rossiya xalqlar do'stligi universiteti); harakatsizlik jinoiy tajovuzning shakli sifatida: Rossiya Federatsiyasi va Qozog'iston Respublikasi qonunchiligi bo'yicha javobgarlik masalalari (Chelyabinsk davlat universiteti); jinoiy harakatsizlikning jinoyat-huquqiy va kriminologik jihatlarini (S.A.Esenin nomidagi Ryazan davlat universiteti); Rossiya jinoyat huquqida jinoyatning oqibatlari, jinoyat huquqida ijtimoiy xavfli oqibat (V.N.Tatishchev nomidagi Volga universiteti); jinoiy qilmishning shakllari va turlari, jinoyat huquqida sababiy bog'lanish: nazariy va amaliy muammolar (O.E.Kutafin nomidagi Moskva davlat yuridik universitet (MGYUA)), jinoyat sodir etish usuli sifatida zo'rlik ishlatib sodir etiladigan jinoyatlarning yakka tartibdagi profilaktikasining ahamiyati va o'rni (Qozog'iston kriminologik assotsiatsiyasi); jinoyat tarkibi obyektiv tomonining nazariy va amaliy jihatlarini takomillashtirish (Toshkent davlat yuridik universiteti) lozimligi to'g'risidagi xulosalar shakllantirilgan va asoslantirilgan.

Jahonda jinoyat tarkibi obyektiv tomoni bo'yicha: "Actus reus" (jinoiy qilmish) shaxsni jinoiy javobgarlikka tortishning obyektiv mezoni; "Actus reus"(jinoiy qilmish) va uning Yevropa jinoyat huquqida qo'llanishi; jinoyatning asosiy sababi sifatida "irodaviy hissiyot"ning ("mens rea" (aybli ong)dan "actus reus"(aybli qilmish)gacha) huquqiy jihatlarini; ingliz jinoyat huquqida sababiy bog'lanish(legal causation); Rossiya jinoyat huquqida qilmishning ijtimoiy xavfliligi; harakatsizlik jinoiy tajovuzning shakli sifatida; jinoiy harakatsizlikning jinoyat-huquqiy va kriminologik jihatlarini; Rossiya jinoyat huquqida jinoyatning

oqibatlari, ijtimoiy xavfli oqibat; jinoyiy qilmish shakllari va turlari; jinoyat huquqida sababiy bog‘lanishning nazariy va amaliy muammolariga bag‘ishlangan ustuvor yo‘nalishlarda tadqiqotlar olib borilmoqda.

Muammoning o‘rganilganlik darajasi. Jinoyat tarkibi obyektiv tomonining nazariy va amaliy jihatlari milliy va dunyo jinoyat-huquqi fanining ustuvor yo‘nalishlaridan hisoblanadi. Mamlakatimizda jinoyat tarkibi obyektiv tomonining nazariy va amaliy jihatlari, shuningdek jinoyat tarkibi obyektiv tomoni bo‘yicha qilmishlarni kvalifikatsiya qilish masalalari va uning o‘ziga xos jinoyat-huquqiy ahamiyati juda ham kam o‘rganilgan.

Mamlakatimizda jinoyat tarkibi obyektiv tomonining umumiy jihatlari M.H.Rustambayev, M.Usmonaliyev, P.Bakunov, A.S.Yakubov, O.X.Rasulov, R.A.Zufarov, R.Kabulov, N.S.Salayev, M.Q.O‘razaliyev, A.A.Otajonov, T.R.Kuchkarov, F.Taxirov, S.S.Niyozova, E.O.Turgunboyev, X.Abzalova, G.Axmedova, S.S.Nayimov, A.K.Irkaxodjayev, U.Sh.Xolikulov, K.B.Hakimov, Sh.D.Xaydarov, R.S.Altiyev, X.R.Ochilov va boshqalar¹ tomonidan o‘rganilgan.

MDHga a‘zo davlatlar olimlari – N.S.Tagansev, N.F.Kuznesova, T.V.Sereteli, G.Kruger, L.L.Kruglikov, N.I.Panov, V.I.Gurov, A.V.Naumov, V.S.Komissarov, A.I.Korobeyev, Xe Binsun, A.I.Boysov, F.Mixaylov, S.I.Ulezko, M.V.Shkele, K.L.Akoyev, M.A.Atalyans, N.F.Mixaylov, B.V.Zdravomislov, A.I.Boyko, A.P.Kozlov, V.B.Malinin, A.F.Parfenov va boshqalar jinoyat tarkibi obyektiv tomoni zaruriy va fakultativ belgilarining alohida turlarini tadqiq qilishgan. A.N.Traynin, G.V.Timeyko, I.Renneberg, V.N.Kudryavsev, M.I.Kovalev, A.N.Popov, L.A.Zimireva, P.V.Fedishina va boshqalar²ning mavzuga oid ishlarini ham alohida ta‘kidlab o‘tish lozim.

“Actus reus”(jinoiy qilmish), jinoiy oqibat va ularning belgilari, sababiy bog‘lanish(legal causation) muammolariga oid masalalar George P.Fletcher, James Mangiafico, Paul H.Robinson, A.C.E. Lynch, Michael S.Moore, Douglas N.Husak, Herbert Morris, Michael Gorr, Arnold N. Enker, Sir William Blackstone, Glanville Williams, H.L.A. Hart, Michael Corrado, Oliver Wendell Holmes, J.W.Cicil Turner, John Austin³ tomonidan o‘rganilgan.

Mazkur olimlar tomonidan olib borilgan tadqiqotlarda jinoyat tarkibi obyektiv tomonining ayrim belgilari alohida turlari tadqiq etilgan, ammo jinoyat tarkibi obyektiv tomonining nazariy va amaliy jihatlari kompleks tarzda dissertatsiya tadqiqoti darajasida o‘rganilmagan, respublikamizda jinoyat tarkibi obyektiv tomonining nazariy va amaliy jihatlari bo‘yicha kompleks monografik tadqiqot o‘tkazilmagan.

Dissertatsiya tadqiqotining dissertatsiya bajarilgan oliy ta‘lim muassasasining ilmiy-tadqiqot ishlari rejalari bilan bog‘liqligi. Tadqiqot ishi Toshkent davlat yuridik universiteti ilmiy-tadqiqot ishlari rejasining “Huquqbuzarliklarni oldini olish va profilaktika qilishning innovatsion usul va vositalari” mavzusidagi fundamental loyihasi (2020–2022-y.y.) doirasida bajarilgan.

¹ Ushbu olimlar asarlari foydalanilgan adabiyotlar ro‘yxatida keltirilgan.

² Ushbu olimlar asarlari foydalanilgan adabiyotlar ro‘yxatida keltirilgan.

³ Ushbu olimlar asarlari foydalanilgan adabiyotlar ro‘yxatida keltirilgan.

Tadqiqotning maqsadi jinoyat tarkibi obyektiv tomonining nazariy va amaliy jihatlarini kompleks o'rganish asosida aniqlangan muammolarning yechimini topish, Jinoyat kodeksi tegishli normalarini takomillashtirishga oid taklif va tavsiyalar ishlab chiqishdan iboratdir.

Tadqiqotning vazifalari:

jinoyat tarkibi obyektiv tomoni belgilari to'g'risidagi ta'limotning shakllanishi(genezisi) va rivojlanishi(evolyusiyasi)ni o'rganish;

jinoyat tarkibi obyektiv tomoni tushunchasi va mohiyatiga tavsif berish va ularga oid nazariy yondashuvlarni tahlil qilish;

jinoyat tarkibi obyektiv tomoni zaruriy va fakultativ belgilarining turlari va ularning tarkibi (tuzilishi)ni tadqiq etish;

jinoyat tarkibi obyektiv tomoni va "actus reus" konsepsiyasini qiyosiy-huquqiy tahlil qilish;

jinoyat qilmish(harakat va harakatsizlik)ni, uning oqibatini va ularning tabiati, turlari va tuzilishini o'rganish;

jinoyat huquqida sababiy bog'lanishga oid nazariyalar va ularning muammolarini, sababiy bog'lanishni aniqlash mezoni va qoidalarini tadqiq etish; harakatsizlikdagi sababiy bog'lanish muammolarining yechimlari bo'yicha taklif va tavsiyalar ishlab chiqish;

jinoyat tarkibi obyektiv tomonining qonunchilikdagi tuzilishi(konstruksiyasi)ni tahlil qilish;

jinoyat tarkibi obyektiv tomoni belgilari va ularning turlari bo'yicha qilmishni kvalifikatsiya qilishning nazariy va amaliy masalalarini o'rganish hamda ular bo'yicha qilmishni kvalifikatsiya qilishning asosiy qoidalarini ishlab chiqish;

ayrim xorijiy davlatlar Jinoyat kodekslarida jinoyat tarkibi obyektiv tomoni belgilari va ular turlarining xususiyatlarini tadqiq qilish orqali milliy qonunchilikni takomillashtirishga qaratilgan takliflar ishlab chiqish;

jinoyat qonunchiligini takomillashtirish va qonunni qo'llash amaliyotini yaxshilash bo'yicha taklif va tavsiyalarni ishlab chiqishdan iboratdir.

Tadqiqotning obyekt jinoyat tarkibi obyektiv tomoni zaruriy va fakultativ belgilarining mohiyatini tushunish va obyektiv tomon belgilariga ko'ra qilmishni kvalifikatsiya qilish bilan bog'liq jinoyat-huquqiy munosabatlar tizimi hisoblanadi.

Tadqiqotning predmeti jinoyat tarkibi obyektiv tomoni belgilari qilmishni kvalifikatsiya qilishning zaruriy va javobgarlikni og'irlashtiruvchi (kvalifikatsiyalovchi) holat sifatida nazarda tutilgan milliy va ayrim xorijiy davlatlar jinoyat qonuni normalari, qonunni qo'llash amaliyoti hamda jinoyat huquqi fanida mavjud bo'lgan konseptual yondashuvlar, ilmiy-nazariy qarashlar va huquqiy kategoriyalardan iboratdir.

Tadqiqotning usullari. Tadqiqot olib borishda tarixiy, tizimli-tuzilmaviy, qiyosiy-huquqiy, mantiqiy, sotsiologik, ilmiy manbalarni kompleks tadqiq etish, induksiya va deduksiya, statistik ma'lumotlar tahlili kabi usullardan foydalanilgan.

Tadqiqotning ilmiy yangiligi quyidagilardan iborat:

JKga o'n olti yoshdan o'n sakkiz yoshgacha bo'lgan shaxs bilan moddiy qimmatliklar berish yoxud mulkiy manfaatdor etish orqali jinsiy aloqa qilish uchun javobgarlik belgilangan 128¹-moddani kiritish zarurligi asoslantirilgan;

JKni hayvonlarga nisbatan shafqatsiz munosabatda bo'lish uchun javobgarlik belgilangan 202¹-modda bilan to'ldirish lozimligi asoslantirilgan;

JKni sud hujjatlarini va boshqa organlar hujjatlarini majburiy ijro etish jarayoniga aralashish uchun javobgarlik belgilangan 232¹-modda bilan to'ldirish haqidagi taklif asoslab berilgan;

JKga insonni undan a'zolarini va (yoki) to'qimalarini transplantatsiya uchun olishga rozilik berishga majburlash uchun javobgarlik belgilangan 115¹-moddasini kiritish zarurligi asoslantirilgan;

JKni inson a'zolarining va (yoki) to'qimalarining oldi-sotdisi uchun javobgarlik belgilangan 133¹-moddasi bilan to'ldirish haqidagi taklif asoslantirilgan;

JKga insonning transplantatsiya qilinadigan a'zolarini va (yoki) to'qimalarini O'zbekiston Respublikasidan tashqariga olib chiqish uchun javobgarlik belgilangan 133²-moddani kiritish lozimligi asoslab berilgan.

Tadqiqotning amaliy natijalari quyidagilardan iborat:

O'zbekiston Respublikasining amaldagi jinoyat qonunchiligini takomillashtirish yuzasidan tegishli takliflar ishlab chiqilgan;

jinoyat tarkibi obyektiv tomoni va uning belgilari turlariga mualliflik ta'rifi berilgan;

JK VIII bo'lim "Atamalarning huquqiy ma'nosi"da harakat, harakatsizlik va aralash harakatsizlik tushunchalarini yangi tahrirda berish zarurati asoslangan;

JKga 16¹-modda ya'ni, "Jinoyat tarkibi o'zida ijtimoiy xavfli qilmish(harakat yoki harakatsizlik)ni muayyan jinoyat sifatida xarakterlovchi Jinoyat kodeksi Maxsus qismi moddasida nazarda tutilgan obyektiv hamda subyektiv belgilarning zarur va yetarli majmuini ifodalaydi. Jinoyat tarkibi amaldagi Kodeksning muayyan moddasi bilan jinoyatni kvalifikatsiya qilish uchun huquqiy asos hisoblanadi." shaklidagi normani kiritish zarurati asoslantirilgan;

JK Umumiy qismi 56-moddasini "p) qurol, o'q-dorilar, portlovchi moddalar, portlatish qurilmalari, portlash yoki ularga o'xshatib yasalgan moslamalardan foydalangan holda", "r) hokimiyat vakilining xizmat kiyimi yoki hujjatidan foydalangan holda", degan bandlar bilan to'ldirish kerakligi asoslantirilgan;

JK 110-moddasining 2-qismini, ya'ni "g) ta'lim, tibbiyot, ijtimoiy xizmatlar yoki boshqa muassasalarda yosh bolaning tarbiyasi, o'qishi va sog'lig'i uchun mas'ul bo'lgan xodim tomonidan sodir etilgan bo'lsa", degan mazmundagi band bilan to'ldirish taklifi asoslantirilgan;

ayrim xorijiy davlatlar tajribasi va qonunni qo'llash amaliyotini o'rganish asosida JK 118, 119-moddalarini "o'zida tanosil yoki boshqa yuqumli kasalligi borligini bila turib, bu kasallik jabrlanuvchiga yuqishiga sabab bo'lsa", "o'ta shafqatsizlik bilan sodir etilgan bo'lsa", "badanga og'ir shikast yetkazgan holda sodir etilgan bo'lsa" va "ehtiyotsizlik oqibatida jabrlanuvchining o'limiga sabab bo'lsa", degan bandlar bilan to'ldirish lozimligi asoslab berilgan;

JK 131-moddasining 3-qismini, ya'ni "b) xizmat mavqeidan foydalangan holda; v) ta'lim, tibbiyot, ijtimoiy xizmatlar ko'rsatuvchi yoki boshqa muassasalarda yoxud ko'ngilochar obyektlar joylashgan boshqa joylarda sodir etilgan bo'lsa", degan mazmundagi degan bandlar bilan to'ldirish taklifi

asoslantirilgan;

JK 155-moddasini quyidagi mazmundagi 3-qismni, ya'ni "v) yadroviy, radioaktiv, kimyoviy, biologik, portlovchi, kuchli ta'sir qiluvchi zaharli moddalar yoki materiallar va ommaviy qirg'in qurollaridan yoxud portlatish qurilmalardan foydalangan holda sodir etilgan bo'lsa", degan band bilan to'ldirish lozimligi asoslab berilgan;

JKga 227¹-modda, ya'ni "qonunga xilof tarzda avtomototransport vositalarining va ular tirkamalarining (yarim tirkamalarining) davlat raqam belgilari yoxud identifikatsiya raqamlarini tayyorlash, qalbakilashtirish, ularni o'tkazish yoki foydalanish" shaklidagi normani kiritish zarurati asoslantirilgan;

JK 229-moddasining 2- va 3-qismlarini, ya'ni "o'sha harakatlar: a) zo'rlik ishlatib yoki zo'rlik ishlatish bilan qo'rqitib; b) telekommunikatsiya tarmoqlaridan, shuningdek Internet butunjahon axborot tarmog'idan foydalanib tarqatilgan holda sodir etilgan bo'lsa" va "ushbu moddaning birinchi yoki ikkinchi qismida nazarda tutilgan harakatlar badanga og'ir shikast yetkazilishiga yoxud boshqa og'ir oqibatlariga sabab bo'lsa", degan mazmundagi degan bandlar bilan to'ldirish taklifi asoslantirilgan;

JKga 266¹-modda ya'ni, "haydovchi yoki transport vositalarini boshqarish huquqi bo'lmagan shaxs tomonidan transport vositalarini alkogolli ichimlikdan mast holda yoki giyohvandlik vositalari, ularning analoglari, psixotrop moddalar yoki shaxsning aql-idrokiga ta'sir ko'rsatuvchi boshqa moddalar ta'siri ostida boshqarishi, shunday qilmish uchun ma'muriy jazo qo'llanilganidan keyin sodir etilgan bo'lsa" shaklidagi normani kiritish zarurati asoslantirilgan;

JK 266-moddasi 3-qismlarini, ya'ni "o'sha qilmish: g) alkogolli ichimlikdan yoki giyohvandlik vositalari, psixotrop moddalar yoki ularning analoglari yoxud shaxsning aql-idrokiga ta'sir ko'rsatuvchi boshqa moddalar ta'siri ostidagi mastlik holatida sodir etilishi natijasida odam o'limga sabab bo'lsa", degan mazmundagi band bilan to'ldirish taklifi asoslantirilgan;

jinoyat qonunchiligini takomillashtirish, jinoyat tarkibi obyektiv tomoni belgilariga oid jinoyat-huquqiy normalarni to'g'ri qo'llash va jinoyatlarni to'g'ri kvalifikatsiya qilishga doir qator tavsiyalar ishlab chiqilgan.

Tadqiqot natijalarining ishonchliligi. Tadqiqot olib borishda ilg'or xorijiy olimlar tomonidan o'rganilgan va tavsiya etilgan zamonaviy metodlardan ham foydalanilgan. Nazariy-ilmiy xulosalar xalqaro ilmiy bazalar (<https://www.scholar.google.com>, <https://www.jstor.org>, <https://www.sciencedirect.com>, <https://www.rroquest.com>, <https://heinonline.org>) hamda boshqa rasmiy manbalardan olingan ishonchli ma'lumotlar asosida shakllantirilgan. Toshkent davlat yuridik universiteti tomonidan 2023-yil 3-fevralda O'zbekiston Respublikasi Oliy sudi, Ichki ishlar vazirligi va O'zbekiston Respublikasi Bosh prokuraturasiga yuborilgan 7-01/397-15-01-son xatiga asosan <https://docs.google.com> elektron platformasida 500 dan ortiq huquqni muhofaza qiluvchi organ xodimlari (surishtiruvchi, tergovchi, prokuror, sudya) va huquqshunoslar (advokat, izlanuvchi va olimlar) o'rtasida anketa so'rovi natijalari va 500 dan ortiq sud hukmlari o'rganilgan; statistik ma'lumotlar tahlil qilinib, umumlashtirilgan va tegishli tartibda rasmiylashtirilgan.

Tadqiqot natijalarining ilmiy va amaliy ahamiyati. Tadqiqot natijalarining ilmiy ahamiyati undagi ilmiy-nazariy xulosalar, taklif va tavsiyalardan kelgusidagi ilmiy faoliyatda, qonun ijodkorligida, qonunni qo'llash amaliyotida, jinoyat qonunchiligining tegishli normalarini sharhlashda, milliy qonunchilikni takomillashtirish hamda jinoyat huquqi, jinoyatlarni kvalifikatsiya qilish, ma'muriy javobgarlik fanlarini ilmiy-nazariy jihatdan boyitishga xizmat qiladi. Tadqiqot natijalaridan yangi ilmiy tadqiqotlar olib borishda foydalanish mumkin.

Tadqiqot natijalarining amaliy ahamiyati qonun ijodkorligi faoliyatida, xususan normativ-huquqiy hujjatlar tayyorlash hamda ularga o'zgartirish va qo'shimchalar kiritish jarayonida, jinoyat qonunchiligi normalarini qo'llash amaliyotini takomillashtirishda hamda oliy yuridik ta'lim muassasalarida jinoyat huquqi fanini o'qitishga xizmat qiladi.

Tadqiqot natijalarining joriy qilinishi. Jinoyat tarkibi obyektiv tomonining nazariy va amaliy jihatlarini tadqiq etish natijalari asosida:

JKni o'n olti yoshdan o'n sakkiz yoshgacha bo'lgan shaxs bilan moddiy qimmatliklar berish yoxud mulkiy manfaatdor etish orqali jinsiy aloqa qilish uchun javobgarlik belgilangan 128¹-moddasi bilan to'ldirish haqidagi taklif O'zbekiston Respublikasining 2021-yil 12-fevraldagi O'RQ-673-sonli "O'zbekiston Respublikasining Jinoyat, Jinoyat-protsessual kodekslariga hamda O'zbekiston Respublikasining Ma'muriy javobgarlik to'g'risidagi kodeksiga o'zgartirish va qo'shimchalar kiritish haqida"gi Qonunining 1-moddasi 2-qismini ishlab chiqishda foydalanilgan (O'zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasi Korrupsiyaga qarshi kurashish va sud-huquq masalalari qo'mitasining 2022-yil 27-sentyabrdagi 06/1-05/1445-son ma'lumotnomasi, O'zbekiston Respublikasi Oliy Majlisi Senati Sud-huquq masalalari va Korrupsiyaga qarshi kurashish qo'mitasining 2022-yil 25-avgustdagi 06/13/45-son ma'lumotnomasi). Ushbu taklifning qabul qilinishi sud amaliyotida o'n olti yoshdan o'n sakkiz yoshgacha bo'lgan shaxs bilan moddiy qimmatliklar berish yoxud mulkiy manfaatdor etish orqali jinsiy aloqa qilishga to'g'ri huquqiy baho berilishiga, adolatli jazo tayinlanishiga xizmat qilgan;

JKni hayvonlarga nisbatan shafqatsiz munosabatda bo'lish uchun javobgarlik belgilangan 202¹-modda bilan to'ldirish haqidagi taklif O'zbekiston Respublikasining 2021-yil 25-avgustdagi O'RQ-711-sonli "O'zbekiston Respublikasining ayrim qonun hujjatlariga o'zgartirish va qo'shimchalar kiritish to'g'risida"gi Qonunining 1-moddasi 2-qismini ishlab chiqishda foydalanilgan (O'zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasi Korrupsiyaga qarshi kurashish va sud-huquq masalalari qo'mitasining 2022-yil 27-sentyabrdagi 06/1-05/1445-son ma'lumotnomasi, O'zbekiston Respublikasi Oliy Majlisi Senati Sud-huquq masalalari va Korrupsiyaga qarshi kurashish qo'mitasining 2022-yil 25-avgustdagi 06/13/45-son ma'lumotnomasi). Mazkur taklifning qabul qilinishi hayvonlarga nisbatan shafqatsiz munosabatda bo'lishni oldini olish va aybdor qilmishini sodir etganlik uchun javobgarlik belgilashga xizmat qilgan;

sud hujjatlarini va boshqa organlar hujjatlarini majburiy ijro etish jarayoniga aralashish uchun javobgarlik belgilangan 232¹-moddani JKga kiritish haqidagi taklif O'zbekiston Respublikasining 2022-yil 11-apreldagi O'RQ-762-sonli "Sud

hujjatlari va boshqa organlar hujjatlarini ijro etish tizimi yanada takomillashtirilishi munosabati bilan O'zbekiston Respublikasining ayrim qonun hujjatlariga o'zgartish va qo'shimchalar kiritish to'g'risida"gi Qonunining 1-moddasi 2-qismini ishlab chiqishda foydalanilgan (O'zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasi Korrupsiyaga qarshi kurashish va sud-huquq masalalari qo'mitasining 2022-yil 27-sentyabrdagi 06/1-05/1445-son ma'lumotnomasi, O'zbekiston Respublikasi Oliy Majlisi Senati Sud-huquq masalalari va Korrupsiyaga qarshi kurashish qo'mitasining 2022-yil 25-avgustdagi 06/13/45-son ma'lumotnomasi). Ushbu taklif qayd etilgan jinoyatni sodir etganlik uchun javobgarlik belgilash va qilmishni to'g'ri kvalifikatsiyasiga xizmat qilgan;

insonni undan a'zolarini va (yoki) to'qimalarini transplantatsiya uchun olishga rozilik berishga majburlash uchun javobgarlik belgilangan JK 115¹-moddasi bilan to'ldirish haqidagi taklif O'zbekiston Respublikasining 2022-yil 23-iyundagi O'RQ-780-sonli "Inson a'zolari va to'qimalarining transplantatsiyasi to'g'risida"gi O'zbekiston Respublikasi qonuni qabul qilinishi munosabati bilan O'zbekiston Respublikasining ayrim qonun hujjatlariga o'zgartish va qo'shimchalar kiritish haqida"gi Qonunining 1-moddasi 3-qismini ishlab chiqishda foydalanilgan (O'zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasi Korrupsiyaga qarshi kurashish va sud-huquq masalalari qo'mitasining 2022-yil 27-sentyabrdagi 06/1-05/1445-son ma'lumotnomasi, O'zbekiston Respublikasi Oliy Majlisi Senati Sud-huquq masalalari va Korrupsiyaga qarshi kurashish qo'mitasining 2022-yil 25-avgustdagi 06/13/45-son ma'lumotnomasi). Mazkur taklif qayd etilgan jinoyatni aybdor tomonidan sodir etilishini to'g'ri kvalifikatsiya qilinishi va o'sha qilmishga adolatli jazo tayinlanishiga xizmat qilgan;

JKni inson a'zolarining va (yoki) to'qimalarining oldi-sotdisi uchun javobgarlik belgilangan 133¹-modda bilan to'ldirish haqidagi taklif O'zbekiston Respublikasining 2022-yil 23-iyundagi O'RQ-780-sonli "Inson a'zolari va to'qimalarining transplantatsiyasi to'g'risida"gi O'zbekiston Respublikasi qonuni qabul qilinishi munosabati bilan O'zbekiston Respublikasining ayrim qonun hujjatlariga o'zgartish va qo'shimchalar kiritish haqida"gi Qonunining 1-moddasi 5-qismini ishlab chiqishda foydalanilgan (O'zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasi Korrupsiyaga qarshi kurashish va sud-huquq masalalari qo'mitasining 2022-yil 27-sentyabrdagi 06/1-05/1445-son ma'lumotnomasi, O'zbekiston Respublikasi Oliy Majlisi Senati Sud-huquq masalalari va Korrupsiyaga qarshi kurashish qo'mitasining 2022-yil 25-avgustdagi 06/13/45-son ma'lumotnomasi). Ushub taklifning qabul qilinishi inson a'zolarining va (yoki) to'qimalarining oldi-sotdisini oldini olish, aybdor qilmishini sodir etganlik uchun javobgarlik belgilash va adolatli jazo tayinlanishiga xizmat qilgan;

JKga insonning transplantatsiya qilinadigan a'zolarini va (yoki) to'qimalarini O'zbekiston Respublikasidan tashqariga olib chiqish uchun javobgarlik belgilangan 133²-moddani kiritish lozimligi haqidagi taklif O'zbekiston Respublikasining 2022-yil 23-iyundagi O'RQ-780-sonli "Inson a'zolari va to'qimalarining transplantatsiyasi to'g'risida"gi O'zbekiston Respublikasi qonuni qabul qilinishi munosabati bilan O'zbekiston Respublikasining ayrim qonun

hujjatlariga o'zgartish va qo'shimchalar kiritish haqida"gi Qonunining 1-moddasi 5-qismini ishlab chiqishda foydalanilgan (O'zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasi Korrupsiyaga qarshi kurashish va sud-huquq masalalari qo'mitasining 2022-yil 27-sentyabrdagi 06/1-05/1445-son ma'lumotnomasi, O'zbekiston Respublikasi Oliy Majlisi Senati Sud-huquq masalalari va Korrupsiyaga qarshi kurashish qo'mitasining 2022-yil 25-avgustdagi 06/13/45-son ma'lumotnomasi). Ushbu taklifning qabul qilinishi insonning transplantatsiya qilinadigan a'zolarini va (yoki) to'qimalarini O'zbekiston Respublikasidan tashqariga olib chiqish uchun javobgarlik belgilash, qayd etilgan jinoyatni aybdor tomonidan sodir etilishini to'g'ri kvalifikatsiya qilinishi va o'sha qilmishga odillik va insonparvarlik prinsiplari asosida adolatli jazo tayinlanishiga xizmat qilgan.

Tadqiqot natijalarining aprobatsiyasi. Mazkur tadqiqot natijalari 9 ta ilmiy anjumanda, jumladan, 5 ta xalqaro, 4 ta respublika ilmiy-amaliy anjumanlarida muhokamadan o'tkazilgan.

Tadqiqot natijalarining e'lon qilinganligi. Dissertatsiya mavzusi bo'yicha jami 36 ta ilmiy ish, jumladan, 1 ta monografiya, 26 ta ilmiy maqola (9 tasi xorijiy nashrlarda) chop etilgan.

Dissertatsiyaning tuzilishi va hajmi. Dissertatsiya kirish, to'rtta bob, xulosa, foydalanilgan adabiyotlar ro'yxati va ilovadan iborat. Dissertatsiyaning hajmi 260 betni tashkil etgan.

DISSERTATSIYANING ASOSIY MAZMUNI

Dissertatsiyaning **kirishida** tadqiqot mavzusining dolzarbligi va zarurati, uning respublika fan va texnologiyalari rivojlanishining ustuvor yo'nalishlariga mosligi, mavzu bo'yicha xorijiy ilmiy-tadqiqotlar sharhi, muammoning o'rganilganlik darajasi, mavzuning dissertatsiya bajarilayotgan oliy ta'lim muassasasining ilmiy-tadqiqot ishlari bilan bog'liqligi, uning maqsad va vazifalari, obykti va predmeti, usullari, ilmiy yangiligi va amaliy natijasi, tadqiqot natijalarining ishonchliligi, ilmiy va amaliy ahamiyati, joriy qilinishi, aprobatsiyasi, natijalarning e'lon qilinganligi, dissertatsiyaning hajmi va tuzilishi haqida ma'lumotlar keltirilgan.

Dissertatsiyaning "**Jinoyat huquqi nazariyasida jinoyat tarkibi obyektiv tomonining nazariy asoslari**" nomli birinchi bobi jinoyat tarkibi obyektiv tomoni belgilari to'g'risidagi ta'limotning shakllanishi va rivojlanishi, jinoyat tarkibi obyektiv tomoni belgilarining umumiy tavsifi, jinoyat tarkibi obyektiv tomoni va "actus reus" konsepsiyasining qiyosiy-huquqiy tahlili asosida aniqlangan muammolarning yechimiga bag'ishlangan.

Tadqiqotchi M.H.Rustambaev, M.Usmonaliyev, P.Bakunov, Q.Abdurasulova, A.S.Yakubov, O.X.Rasulov, R.Kabulov, A.A.Otajonov, E.O.Turgunboyev, I.A.Sottiyev, T.R.Kuchkarov, X.R.Ochilov, A.N.Traynin, G.V.Timeyko, I.Renneberg, V.N.Kudryavsev, A.V.Naumov, N.A.Lopashenko, A.I.Chuchayev, Inogamovoy-Xegay, A.I.Rarog, A.I.Boyko, V.B.Malinin, A.F.Parfenov

va boshqalar tomonidan o'tkazilgan tadqiqotlar¹ning tahlili asosida jinoyat tarkibining kesik, formal yoki moddiy tarkibli jinoyatlar obyektiv tomonning barcha belgilariga tegishli zaruriy bo'lgan belgi – ijtimoiy xavfli qilmishning mavjudligidir, degan fikrini asoslagan. Jinoiy oqibat, sababiy bog'lanish, jinoyat sodir etish quroli va vositasi jinoyat tarkibi obyektiv tomonining fakultativ belgilari hisoblanadi. Istisno tariqasida faqat moddiy tarkibli jinoyatlarda jinoiy qilmish, ijtimoiy oqibat va sababiy bog'lanish jinoyat tarkibi obyektiv tomoni zaruriy belgilaridir. Jinoyat sodir etish joyi, vaqti, holati va usuli jinoyat tarkibi obyektiv tomonining mustaqil belgilari va jinoyat sodir etish sharoitlaridir. Har qanday jinoyat muayyan vaqtda, joyda, holatda va usulda sodir etiladi, deb hisoblaydi.

Huquqshunoslar (izlanuvchi va olimlar), sudyalari va huquqni muhofaza qiluvchi organlar xodimlari o'rtasida o'tkazilgan so'rovda ishtirok etgan respondentlarning 70 % jinoyat sodir etish vaqti, joyi va usuli shart-sharoit bo'lib, qilmishni kvalifikatsiya qilishda bevosita ta'sir qilishini ko'rsatganligi ham ularni jinoyat tarkibi obyektiv tomonning mustaqil belgisi(shart-sharoitlari), deb hisoblash uchun asos bo'lgan.

Muallif jinoyat huquqi nazariyasidagi jinoyat tarkibi to'g'risidagi kotsepsiyalar("ilmiy abstraksiya", "real jinoyat tarkibi", "normativ yoki qonunchilik modeli") va jinoyat tarkibiga bag'ishlangan taqiqotlar(N.S. Tagansev, A.N.Traynin, V.N.Kudryavsev, N.F.Kuznesova, A.I.Boyko, A.I.Rarog, A.N.Ignatov, I.Ya.Gontar, Ye.O.Filippova, Yu.E.Pudovochkin, D.A.Dorogin, George P.Fletcher, O.X.Rasulov, M.X.Rustambayev, A.S.Yakubov, M.Usmonaliyevning) hamda xorijiy mamlakatlar(Germaniya, Moldova va boshqalar) jinoyat qonunchiligining tadqiqi natijasida JK Umumiy qismiga "Jinoyat tarkibi" deb nomlangan yangi 16¹-moddani kiritish lozimligini asoslagan.

Tadqiqot jarayonida o'tkazilgan so'rovda JK Umumiy qismiga "Jinoyat tarkibi" oid norma kiritish zarurati bormi?, degan savolga sudyalarning 65.4% bunday normani kiritish kerakligini; 34.6% bunday norma kiritishga zarurat yo'qligini; O'zbekiston Respublikasi prokuratura organlari tizimida faoliyat olib borayotgan xodimlarning 57% bunday normani kiritish zarurligini, 43% kiritish zarurati yo'qligini; surishtiruvchilar va tergovchilarining 78% kiritish zarurligini, 22% kiritish zarur emas, deb hisoblashlarini bildirishgan. Ushbu savol bo'yicha amaliyot xodimlari fikrlari hamda xorijiy mamlakatlar(Germaniya, Moldova va boshqalar) jinoyat qonunchiligini tadqiq qilish natijasida muallif JK Umumiy qismiga "Jinoyat tarkibi" deb nomlangan yangi 16¹-modda bilan to'ldirish zaruratini asoslagan:

"Jinoyat tarkibi o'zida ijtimoiy xavfli qilmish(harakat yoki harakatsizlik)ni muayyan jinoyat sifatida xarakterlovchi Jinoyat kodeksi Maxsus qismi moddasida nazarda tutilgan obyektiv hamda subyektiv belgilarning zarur va yetarli majmuini ifodalaydi.

Jinoyat tarkibi amaldagi Kodeksning muayyan moddasi bilan jinoyatni kvalifikatsiya qilish uchun huquqiy asos hisoblanadi."

¹ Ushbu olimlar asarlari foydalanilgan adabiyotlar ro'yxatida keltirilgan.

Dissertant jinoyatning moddiy belgisi bo'lgan ijtimoiy xavflilik, uning xususiyati va darajasi aynan jinoyat tarkibi obyektiv tomon belgilari orqali aniqlanishi va ushbu belgilarga asosan JK Maxsus qismi normalarining dispozitsiyalari shakllantiriladi, degan fikrni ilgari surib, o'z fikrini quyidagilar bilan asoslantiradi: 1) obyektiv tomon belgilari asosida JK Maxsus qismi normalarining dispozitsiyalari shakllantiriladi va ular jinoiy javobgarlikka tortishning obyektiv asosidir; 2) jinoyatning ijtimoiy xavflilik xususiyati odatda tajovuz obyekti va obyektiv tomon belgisi bo'lgan jinoiy oqibat bilan belgilansa, uning ijtimoiy xavflilik darajasi qilmishning sodir etilish holatlari: asosan jinoyatning sodir etish usuli, zarar miqdori yoki kelib chiqqan oqibatlarning og'irligi bilan belgilanadi; 3) muayyan holatda obyektiv tomonning zaruriy belgisi bo'lgan ijtimoiy xavfli qilmish(harakat yoki harakatsizlik)ning mavjud emasligi, jinoyat tarkibining ham mavjud emasligini anglatadi; 4) har qanday jinoyat tarkibi obyektiv tomoni belgilarini aniqlash jinoyatni kvalifikatsiya qilishning dastlabki bosqichi hisoblanadi; 5) jinoyat tarkibi obyektiv tomoni belgilariga tayanib, jinoyat tarkibining boshqa elementlari va belgilari aniqlanadi; 6) jinoyat tarkibi obyektiv tomoni u yoki bu belgilarining mavjudligi sodir etilgan qilmishning ijtimoiy xavflilik xususiyati va darajasiga ta'sir qiladi va ularga tayanib o'xshash tarkibli jinoyatlar bir-biridan farqlanadi; 7) obyektiv tomonning belgilariga asoslanib, jinoiy qilmishning tamom bo'lish payti aniqlanadi; 8) aynan jinoyat tarkibi obyektiv tomonining qonun normasi dispozitsiyasidagi tuzilishi, boshqa ko'plab jinoyat-huquqiy masalalarni, masalan, jinoyatda ishtirokchilik, dastlabki jinoiy faoliyat, jinoyatdan ixtiyoriy qaytish kabilarning hal qilinishiga xizmat qiladi; 9) jinoyat obyektiv tomonining barcha belgilarini aniqlamasdan turib, adolatli jazo tayinlanishi mumkin emas.

Dissertatsiyaning **“Jinoiy qilmish va uning oqibatini o'rganishning metodologik asoslari”**ga bag'ishlangan ikkinchi bobda jinoiy harakat ijtimoiy xavfli xulq-atvorning shakli sifatida: umumiy va maxsus belgilar munosabati, jinoiy harakatsizlik ijtimoiy xavfli xulq-atvorning shakli sifatida: aralash harakatsizlik va uning muammolari, jinoiy oqibatning tabiati, tuzilishi, uning ro'y berishi va turlari tahlil qilinib, jinoyatlarni kvalifikatsiya qilishning ayrim masalalari tadqiq etilgan.

Dissertant ushbu bobda jinoiy qilmish(harakat yoki harakatsizlik)ning quyidagi belgilarini tavsiflagan: 1) jinoiy harakatning umumiy belgilari: onglilik; irodaviylik; ixtiyoriylik; tashqi faol(aktiv)lik; murakkab xususiyatlilik (muayyan maqsadga erishish uchun foydalanilgan tabiat, tashqi obyektiv qonuniyatlari va kuchlari yig'indisidan iborat); uning maxsus belgilari: ijtimoiy xavflilik (moddiy belgisi); huquqqa xiloflilik (yuridik belgisi); 2) jinoiy harakatsizlikning umumiy belgilari: onglilik; irodaviylik; ixtiyoriylik; tashqi nofaol(passiv)lik; murakkab xususiyatlilik (muayyan jinoiy oqibat ro'y berishida tabiat, tashqi obyektiv qonuniyatlari va kuchlarining ishtiroki); uning maxsus belgilari: ijtimoiy xavflilik (moddiy belgisi); huquqqa xiloflilik (yuridik belgisi).

Tadqiqotchi jinoiy harakatsizlikda shaxsni javobgarlikka tortish uchun uning obyektiv(normativ huquqiy hujjatlarda nazarda tutilgan majburiyatlar) va subyektiv (majburiyatlarni bajara olishning real imoniyati) mezonlari bo'lishi

lozim, degan xulosaga kelgan va ijtimoiy xavfli harakatsizlikning obyektiv mezonlarini quyidagicha tasniflagan: 1) ularning qonunda nazarda tutilgan, ya'ni jinoyat qonunchiligi yoki normativ-huquqiy hujjatlarda belgilanganligi; 2) xizmat, kasb yoki mansab vazifasi va majburiyatlari; 3) sudning qarori bilan shaxsga turli xil majburiyatlarni bajarishning yuklatilganligi; 4) jabrlanuvchini muayyan xavfli ahvolga solib qo'ygan shaxsning unga yordam berishi shartligi.

Muallif mavzuga oid o'tkazilgan tadqiqotlarni o'rganish natijasida ijtimoiy xavfli harakatsizlik ikki turga ajratilgan: – sof harakatsizlik; – aralash harakatsizlik. “Sof” harakatsizlikka JK 221 va 279-moddalarida javobgarlik belgilangan jinoyatlarni keltirish mumkin. Bunda qonunda belgilangan harakatni bajarmaslik, ijtimoiy xavfli oqibat ro'y bergan yoki bermaganligidan qat'i nazar, jinoyat sodir etilgan hisoblanadi. “Aralash” harakatsizlikka JK 260 va 266-moddalaridagi qilmishlarni keltirish mumkin, degan xulosaga kelingan.

Dissertant jinoiy harakatsizlikka bag'ishlangan tadqiqotlar (M.H.Rustambayev, M.Usmonaliyev, P.Bakunov, G.V.Timeyko, N.D.Durmanov, V.B.Malinin, N.Panov, A.I.Boyko, George P.Fletcher, U.S.Djekebayev va boshqa olimlarning asalari)¹ni o'rganib, jinoiy harakatsizlik uchun javobgarlik asoslari: faktik, yuridik(huquqiy) va subyektivdir; yuridik asos – shaxsning normativ huquqiy hujjatlarda belgilangan vazifa va majburiyatlarini bajarmaganligi, bajarishga qaratilgan harakatlarni sodir etmaganligi; faktik asos – shaxsning qonunda belgilangan va yuklatilgan majburiyatlarni obyektiv haqiqatda aniq bajarmaganligi; subyektiv asos – shaxsda biror-bir majburiyatni bajarishning real imkoniyati mavjud ekanligi asoslangan. Ulardan birining mavjud emasligi harakatsizlik uchun jinoiy javobgarlikni keltirib chiqarmaydi. Jinoiy harakatsizlikda harakatni bajarish majburiyati boshqa bir harakatni bajarish majburiyati bilan chegaralansa, ushbu qarama-qarshilik oxirgi zaruratga oid (JK 38-moddasi) qoidalar bilan tartibga solinishi lozim, degan xulosaga kelingan.

Muallif ijtimoiy xavfli oqibatni tasniflashning asoslari tufayli jinoyat huquqida ularni tizimlashtirish muammosi mavjudligini aytib, ayrim mualliflarning fikrlari tanqidiy tahlil qilinib, jinoyat-huquqiy oqibatni faqat moddiy va nomoddiy turlarga bo'linishidan tashqari uni quyidagi mezonlarga qarab guruhlariga bo'lishni taklif qiladi: 1) *yetkazilgan zararning tabiatiga ko'ra*: moddiy(jismoniy va mulkiy zarar ko'rinishidagi) va nomoddiy(real ziyon ko'rinishidagi nomoddiy zarar (JK 144-m. va b.q.lar) va zarar yetkazishning real xavfi ko'rinishidagi oqibat (JK 113-m. va b.q.lar)); 2) *yetkazilgan zararning xavflilik darajasiga ko'ra*: jinoyat tarkibining zaruriy belgisi sifatida ifodalangan oqibat (JK 266-m. va b.q.lar) va jinoyat tarkibining javobgarlikni og'irlashtiruvchi (kvalifikatsiyaviy) belgisi sifatida nazarda tutilgan oqibat (JK 266-m. 2- va 3-q.lari); 3) *jinoyat qonunchiligida belgilanganiga ko'ra*: aniq qilib belgilangan oqibat (JK 97-103¹-m.lar, 104-m. 3-q. “d” b., 106-m. va b.q.lar) va baholanuvchi oqibat (“mulkiy zarar yetkazish”, “ancha miqdor”, “ko'p miqdor”, “juda ko'p miqdor”, “ancha miqdordagi zarar”, “ko'p miqdordagi zarar”, “juda ko'p miqdordagi zarar”, “jiddiy zarar”, “jiddiy ziyon”, “og'ir oqibat”, “boshqacha og'ir oqibat”); 4) *qilmishni*

¹ Ushbu olimlar asarlari foydalanilgan adabiyotlar ro'yxatida keltirilgan.

jinoyat sifatida kvalifikatsiya qilish uchun ahamiyatiga ko'ra: majburiy (JK 115-m. va b.q.lar) va qo'shimcha (JK 164-m. 3-q. "g" b. va b.q.lar).

Dissertatsiyaning **"Jinoyat huquqida sababiy bog'lanishni o'rganishning metodologik asoslari"** nomli uchinchi bobida jinoyat huquqida sababiy bog'lanish va uning determinizm bilan o'zaro munosabati, sababiy bog'lanish haqidagi nazariyalar va ularning muammolari, harakatsizlikda sababiy bog'lanish muammolari ko'rib chiqilgan.

Dissertatsiyada jinoyat qonunchiligi va sud amaliyotida jinoiy qilmish va ijtimoiy xavfli oqibat o'rtasidagi sababiy bog'lanishning obyektivligidan kelib chiqiladi va jinoiy qilmish va oqibat o'rtasida har doim obyektiv ketma-ketlik mavjud bo'ladi, degan yondashuv moddiy tarkibli jinoyatlarning zaruriy belgisi bo'lmish sababiy bog'lanishning mohiyatini ochib berishga yordam beradi, degan g'oya ilgari surilgan. Jinoyat huquqi sohasidagi mutaxassislar va olimlar doimo sababiyatning obyektiv xususiyatini tan olib kelishadi. Jinoyat huquqida sababiy bog'lanishga berilgan ta'riflar ikkita tamoyilga asoslangan bo'lib, ular o'z xususiyatiga ko'ra metodologik ahamiyat kasb etadi. Birinchi tamoyil hodisalarni sun'iy ravishda ajratib olish (izolyatsiya qilish "but-for test") tamoyili bo'lsa, ikkinchisi esa sababiy bog'lanishni aniqlashda aqliy istisno qonun-qoidasi hisoblanadi.

Muallif sababiy bog'lanishning murakkabligi bois jinoyat huquqi nazariyasida ba'zi olimlar, ko'p hollarda sababiy bog'lanishga oid nazariyalar va konsepsiyalarni chalkashtirib yuborganligini ta'kidlaydi va sababiy bog'lanishga oid quyidagi nazariyalar va konsepsiyalarni: 1) *ekvivalentlik nazariyasi* ("*Conditio sine qua non*" – "*zaruriy shartsiz vaziyat, oqibat yo'q...*"); 2) *adekvatlik nazariyasi*; 3) *bosh sabablar nazariyasi*; 4) *sabablar va sharoitlar nazariyasi*; 5) *bevosita sababiylik nazariyasi*; 6) *zaruriy va tasodifiy sababiy bog'lanish nazariyasi*; 7) "*kiruvchi kuchlar*" nazariyasi; 8) *ehtimoliy sababiy bog'lanish nazariyasi*; 9) *imkoniyat va voqelik nazariyasi*; 10) "*ichki sababiyat*" nazariyasi; 11) "*aybga daxldorlik*" nazariyasi; 12) *zaruriy shartlar nazariyasiga* ajratgan.

Dissertant jinoyat huquqi nazariyasi va ilmiy tadqiqotlarda yuqoridagi nazariyalarning barchasi qo'llab-quvvatlanmasligi va ba'zilari rad etilishini ham ta'kidlaydi.

Tadqiqotchi jinoyat huquqi nazariyasi va qonunni qo'llash amaliyotida sababiy bog'lanish muammosini hal etish uchun quyidagi qoidalar va prinsiplarni qo'llanishga oid taklif va tavsfiyalarni ilgari suradi:

1) jinoiy qilmish–vaqt–ijtimoiy xavfli oqibat qoidasi; 2) hodisalarning sun'iy izolyatsiyasi("but-for test") prinsipi; 3) "oqibat–qilmish" prinsipi; 4) " mantiqiy istisno va inkor" qoidasi.

Ushbu bobda jinoyat huquqida sababiy bog'lanish nazariyalari va konsepsiyalarini tahlil qilish asosida jinoyat-huquqiy ahamiyatga ega sababiy bog'lanishning quyidagi belgilari va mezonlarini ishlab chiqilgan:

1) jinoyat-huquqiy sababiy bog'lanishning belgilari: a) qilmish va oqibatning ijtimoiy xavfli hamda huquqqa xilofligidan kelib chiqqan sababiy bog'lanish; b) obyektivlik; d) hodisalar o'rtasidagi umumiy sababiy aloqaning qismi; g) "sabab-oqibat" (sababning doimo oqibatdan oldin kelishi); e) zaruriy sababiy

bog‘lanish;

2) jinoiy qilmish va ijtimoiy xavfli oqibat o‘rtasidagi sababiy bog‘lanish:

a) vaqt bo‘yicha muvofiqlik; b) qilmishning oqibatni keltirib chiqarish real imkoniyatiga egaligi; d) qilmish tufayli oqibatning ro‘y berganligi bosh va bevosita sabab ekanligi; e) oqibatning har qanday qilmish emas, balki aynan sodir etilgan qilmish tufayli ro‘y berganligi; f) jinoiy qilmishsiz ijtimoiy xavfli oqibat ro‘y bermasligi.

Dissertatsiyaning **“Jinoyat tarkibi obyektiv tomoni bo‘yicha qilmishni kvalifikatsiya qilishning nazariy, amaliy masalalari va ular bog‘liq JK normalari takomillashtirish”**ga bag‘ishlangan to‘rtinchi bobida jinoyat tarkibi obyektiv tomonining qonunchilikdagi konstruksiyasi, jinoyat tarkibi obyektiv tomoni belgilari va ularning turlari bo‘yicha qilmishni kvalifikatsiya qilishning asosiy qoidalari, jinoyat tarkibi obyektiv tomoni bilan bog‘liq JK Umumiy va Maxsus qismi normalari takomillashtirish istiqbollari o‘rganilgan.

Dissertant jinoyat tarkibi obyektiv tomonining qonunchilikdagi konstruksiyasini tahlil qilib, qilmishni kvalifikatsiya qilishda jinoyat-huquqiy ahamiyatga ega bo‘lgan jinoyat tarkibi obyektiv tomonining quyidagi belgilarini tavsiflagan:

1) *jinoyat qonunchiligida ijtimoiy xavfli qilmishning ifodalanish tavsifi:*

a) jinoiy qilmish (harakat yoki harakatsizlik)ning xususiyati va muayyan ro‘yxati JK Maxsus qismi moddalarida dispozitsiyasida to‘liq ifodalanishi; b) jinoiy qilmish (harakat yoki harakatsizlik) tavsifi JK Maxsus qismi moddalarida dispozitsiyasida nazarda tutilmasdan, jinoyat-huquqiy oqibatning ifodalanishi; d) jinoiy qilmish(harakat yoki harakatsizlik) tavsifining blanket dispozitsiyada ifodalanishi; e) jinoiy qilmish(harakat yoki harakatsizlik)ning qonun chiqaruvchi tomonidan havolaki dispozitsiyada ifodalanishi; f) jinoiy qilmish (harakat yoki harakatsizlik)ning JK Maxsus qismi moddalarida dispozitsiyasida alternativ (muqobil) shaklda ifodalanishi; g) jinoiy qilmishning asosiy va zaruriy ikki harakat shaklida JK Maxsus qismi moddalarida dispozitsiyasida ifodalanishi;

2) *jinoyat qonunchiligida ijtimoiy xavfli harakatsizlikning ifodalanish tavsifi:*

a) jinoyat qonunchiligida nazarda tutilgan harakatsizlik; b) xizmat, kasbiy yoki mansab vazifalari va majburiyatlarini bajarmaslik; d) sudning qarorida nazarda tutilgan majburiyatlarni bajarmaslik; e) aybdorning harakatlari tufayli yuzaga kelgan majburiyatlarni bajarmaslik; f) JK Maxsus qismi normasida harakatsizlikning to‘g‘ridan-to‘g‘ri ifodalanmaganligi; g) JK Maxsus qismi normasida harakatsizlikning muayyan oqibatlarsiz ifodalanishi yoki uning muayyan oqibatlarning kelib chiqish sababi sifatida ifodalanishi; h) JK Maxsus qismi normasida harakatsizlik muayyan turlarining ifodalanishi;

3) *jinoyat qonunchiligida ijtimoiy xavfli oqibatning ifodalanish tavsifi:*

a) xususiyati va darajasi(og‘irligi) aniq ko‘rsatilgan jinoyat-huquqiy oqibat; b) baholovchi tushunchalar yordamida ifodalangan jinoyat-huquqiy oqibat (“mulkiy zarar yetkazish”, “ancha miqdor”, “ko‘p miqdor”, “juda ko‘p miqdor”, “ancha miqdordagi zarar”, “ko‘p miqdordagi zarar”, “juda ko‘p miqdordagi zarar”, “jiddiy zarar”, “jiddiy ziyon”, “og‘ir oqibat”, “boshqacha og‘ir oqibat”); d) xususiyati va darajasi(og‘irligi) alternativ(muqobil) ko‘rsatilgan jinoyat-huquqiy

oqibat; e) xususiyati va darajasi(og'irligi) bo'yicha jinoyat qonunchiligida ro'yxati keltirilgan jinoyat-huquqiy oqibat; f) xususiyati va darajasi(og'irligi) bo'yicha jinoyat qonunchiligida vujudga kelish real xavfi mavjud bo'lgan jinoyat-huquqiy oqibat; g) xususiyati va darajasi(og'irligi) bo'yicha jinoyat qonunida nazarda tutilgan asosiy va qo'shimcha jinoyat-huquqiy oqibat;

4) *qilmishni kvalifikatsiya qilishda jinoyat tarkibi obyektiv tomoni fakultativ belgilarining "an'anaviy uchligi"*:

1) qonun chiqaruvchi tomonidan jinoyat obyektiv tomoni fakultativ belgilari JK Maxsus qismi muayyan moddasi dispozitsiyasida jinoyat tarkibining zaruriy belgisi sifatida nazarda tutilganligi;

2) jinoyat obyektiv tomoni fakultativ belgilarining JK Maxsus qismi muayyan moddasida jinoyat tarkibi (obyektiv tomon)ning javobgarlikning og'irlashtiruvchi (kvalifikatsiyaviy) zaruriy belgi sifatida nazarda tutilganligi;

3) jinoyat qonunida jinoyat tarkibi obyektiv tomonining fakultativ belgilari jazoni yengillashtiruvchi yoki og'irlashtiruvchi holat sifatida (JK 55-56-moddalarida) nazarda tutilganligi asoslangan.

Ushbu bobda jinoyat obyektiv tomoni fakultativ belgilarining o'ziga xos "uchlik" deb nom olgan jinoyat-huquqiy ahamiyatining dastlabki ikkitasi qilmishning kvalifikatsiyasiga bevosita ta'sir ko'rsatishi isbotlangan.

Dissertant JK VIII bo'limi "Atamalarning huquqiy ma'nosi"da *aralash harakatsizlikka* ta'rif berilishi lozimligini, shuningdek, harakatga berilgan ta'rifda *huquqqa xiloflik, irodaviylik va murakkab xususiyatga egalik* belgilari, harakatsizlik ta'rifida esa majburiyatlarda bajarishi shart qilib belgilangan muayyan harakatlarni real imkoniyatga ega bo'la turib bajarmaslik, ya'ni javobgarlikka tortishning *subyektiv mezoni* berilmaganini tanqid qilib, AQSh (Nyu Djersi jinoyat odil sudlov kodeksi 2-bob), Germaniya, Kanada va boshqa xorijiy davlatlar jinoyat qonunchiligida ushbu qoidaning ifodalanganligini asos sifatida keltirgan.

Sudyalar, huquqni muhofaza qiluvchi organlar xodimlari, izlanuvchi va olimlar o'rtasida o'tkazilgan so'rovda JK VIII bo'limi "Atamalarning huquqiy ma'nosi"da *aralash harakatsizlik* tushunchasi berilishi va harakatga berilgan ta'rifda *huquqqa xiloflik, irodaviylik va murakkab xususiyatga egalik* belgilari, harakatsizlik ta'rifida esa majburiyatlarda bajarishi shart qilib belgilangan muayyan harakatlarni real imkoniyatga ega bo'la turib bajarmaslik, ya'ni javobgarlikka tortishning subyektiv mezoni ifodalanishiga zarurat bormi? degan degan savolga ishtirok etgan respondentlarning 74.8% foizi bunday belgilarni kiritish kerakligini; 17.9% bunday belgilarini kiritish zarur emas, degan fikrni bildirgan.

Muallif jinoyatni sodir etishda *"qurol, o'q-dorilar, portlovchi moddalar, portlatish qurilmalari, portlash yoki ularga o'xshatib yasalgan moslamalardan foydalanish"* yoki *"hokimiyat vakilining xizmat kiyimi yoki hujjatidan foydalanish"*ni og'irlashtiruvchi belgi sifatida JK 56-moddasidagi jazoni og'irlashtiruvchi holatlar ro'yxatiga kiritilmaganini tanqid qilib, AQSh, Kanada, Germaniya, Fransiya, Yaponiya jinoyat qonunchiligi, Estoniya JK (Penitensiar kodeksi) 58-modda 11-bandi, RF JK 63-moddasi 1-qismi "k", "n" bandi,

Qozog‘iston JK 54-modda 1-qismi 10, 15-bandi, Tojikiston JK 62-modda 1-qismi “1” bandi; Ozarbayjon JK 61-modda 61.1.12. bandida jinoyatni qurol, jangovar yarog‘lar (o‘q dorilar), portlovchi moddalar, portlatuvchi yoki ularga o‘xshatib yasalgan moslamalar, maxsus tayyorlangan texnik vositalar, zaharli yoki radioaktiv moddalar, dori yoki boshqa kimyoviy-farmakologik preparatlardan yoki hokimiyat vakilining xizmat kiyimi yoxud hujjatidan foydalanib sodir etilganligi, jazoni og‘irlashtiruvchi holatlar sifatida e‘tirof etilganligini asos sifatida keltirgan.

Sudyalar, huquqni muhofaza qiluvchi organlar xodimlari, izlanuvchi va olimlar o‘rtasida o‘tkazilgan so‘rovda yuqoridagi jinoyat sodir etish qurolini JK Umumiy qismi 56-moddasidagi “Jazoni og‘irlashtiruvchi holatlar”ga yoki JK Maxsus qism ayrim moddalarida nazarda tutilgan jinoyatning javobgarlikni og‘irlashtiruvchi belgisi sifatida unga kiritish zarurati bormi? degan savolga ishtirok etgan respondentlarning 76.6% foizi bunday normani kiritish kerakligini; 16% bunday norma kiritish zarur emas, degan fikrni bildirgan.

Dissertatsiyada qonunchilik normalari, qonunni qo‘llash amaliyoti, sotsiologik tadqiqotlar, statistik ma‘lumotlar tahlili va xorijiy davlatlar tajribasi tahliliga asoslanib muallif jinoyat tarkibi obyektiv tomonining belgilari bo‘yicha JK 110-m. 2-q., 118-119-m.lar 2- va 4-q.lari, 131-m. 3-q., 155-m. 3-q., 164-m. 3-q. “v.” b., 166-m. 3-q. “b” b., 169-m. 3-q. “v” b., 266-m. 3-q.larini takomillashtirish yuzasidan quyidagi takliflar ishlab chiqilgan:

1. JK 110-m. 2-q. “Qiyinash: g) *ta’lim, tibbiyot, ijtimoiy xizmatlar yoki boshqa muassasalarda yosh bolaning tarbiyasi, o‘qishi va sog‘lig‘i uchun mas’ul bo‘lgan xodim tomonidan sodir etilgan bo‘lsa*”;

2. JK 118-119-m.lar 2-q. “e) *o‘zida tanosil yoki boshqa yuqumli kasalligi borligini bila turib, bu kasallik jabrlanuvchiga yuqishiga sabab bo‘lsa; j) o‘ta shafqatsizlik bilan sodir etilgan bo‘lsa; z) badanga og‘ir shikast yetkazgan holda sodir etilgan bo‘lsa*”;

3. JK 118-119-m.lar 4-q. “a) *o‘n to‘rt yoshga to‘lmaganligi aybdorga ayon bo‘lgan; b) ehtiyotsizlik oqibatida jabrlanuvchining o‘limiga sabab bo‘lsa*”;

4. JK 131-m. 3-q. “Qo‘shmachilik qilish yoki fohishaxona saqlash: a) bir guruh shaxslar tomonidan oldindan til biriktirib; b) *xizmat mavqeidan foydalangan holda; v) ta’lim, tibbiyot, ijtimoiy xizmatlar ko‘rsatuvchi yoki boshqa muassasalarda yoxud ko‘ngilochar obyektlar joylashgan boshqa joylarda sodir etilgan bo‘lsa.*”;

5. JK 155-m. 3-q. “Terrorizm: v) *yadroviy, radioaktiv, kimyoviy, biologik, portlovchi, kuchli ta’sir qiluvchi zaharli moddalar yoki materiallar va ommaviy qirg‘in qurollaridan yoxud portlatish qurilmalardan foydalangan holda sodir etilgan bo‘lsa*”;

6. JK 229-m. 2- va 3-q. “O‘sha harakatlar: a) *zo‘rluk ishlatib yoki zo‘rluk ishlatish bilan qo‘rqitib; b) telekommunikatsiya tarmoqlaridan, shuningdek Internet butunjahon axborot tarmog‘idan foydalanib tarqatilgan holda sodir etilgan bo‘lsa*”. Ushbu moddaning birinchi yoki ikkinchi qismida nazarda tutilgan harakatlar badanga og‘ir shikast yetkazilishiga yoxud boshqa og‘ir oqibatlariga sabab bo‘lsa”;

7. JK 266-m. 3-q. “g) *alkogolli ichimlikdan yoki giyohvandlik vositalari,*

psixotrop moddalar yoki ularning analoglari yoxud shaxsning aql-idrokiga ta'sir ko'rsatuvchi boshqa moddalar ta'siri ostidagi mastlik holatida sodir etilishi natijasida odam o'limga sabab bo'lsa";

Ushbu bobda avtomototransport vositalari va ular tirkamalari (yarim tirkamalari)ning davlat raqam belgilarini egallash, nobud qilish, ularga shikast yetkazish yoki ularni yashirish uchun JK 227-moddasida javobgarlik bo'lgilangan bo'lsada, ularni qonunga xilof ravishda tayyorlaganlik, qalbakilashtirganlik, sotganlik yoki undan foydalanganlik uchun jinoyat qonunchiligida javobgarlik mavjud emasligi, davlat raqam belgisi yasama yoki o'zga usullarda o'zgartirilgan transport vositalarini, xuddi shuningdek davlat raqam belgisi ayni shu transport vositasiga tegishli bo'lmagan transport vositasini boshqarish uchun MJtK 125-moddasi 6-qismida ma'muriy javobgarlik nazarda tutilgan bo'lsada, ayrim fuqarolar tomonidan jinoyat sodir etish yoki jinoyat izlarini yashirish maqsadida, shuningdek, foto va video qayd etish texnika vositalariga qayd etilmaslik maqsadida davlat raqam belgilari yoki identifikatsiya raqamlarini qonunga xilof ravishda tayyorlash, qalbakilashtirish yoki ulardan foydalanish uchun jinoiy javobgarlik belgilanishi zarurati asoslanib, JKga *"Avtomototransport vositalarining va ular tirkamalari (yarim tirkamalari)ning davlat raqam belgilari yoxud identifikatsiya raqamlarini tayyorlash, qalbakilashtirish, sotish yoki ulardan foydalanish"* degan mazmundagi yangi 227¹-moddani kiritish taklif qilingan va shunday norma Rossiya Federatsiyasi JK 326-moddasida, Moldova JK 276-moddasida, Armaniston JK 325-moddasida, Belorussiya JK 381-moddasida, Qozog'iston JK 386-moddasida va boshqa qator MDH davlatlari) jinoyat qonunchiligida aks etganligini ta'kidlagan.

Tadqiqot jarayonida o'tkazilgan so'rovda JKga yangi 227¹-moddasini kiritish zarurati bormi?, degan savolga sudyalari, prokurorlar, surishtiruvchilar, tergovchilar, professor-o'qituvchilarning 72,2% bunday moddani kiritish kerakligini, 23,4% bunday modda kiritish zarur emas, deb hisoblashlarini bildirishgan.

Dissertatsiyada transport vositasini mast holda boshqarganlik uchun MJtK 131-moddasida ma'muriy javobgarlik belgilangan bo'lsada, tegishli normativ-huquqiy hujjatda nazarda tutilgan qoidalarni mensimasdan transport vositasini takroran mast holda, ya'ni alkogolli ichimlik yoki giyohvandlik vositalari, ularning analoglari, psixotrop moddalar yoki shaxsning aql-idrokiga ta'sir ko'rsatuvchi boshqa moddalar ta'siri ostida mast holda boshqarishi og'ir oqibatli yo'l-transport hodisalarining sodir bo'lishiga sabab bo'layotganligi, shuningdek, MJtK 131-moddasi bo'yicha Respublikada jami 2019 yilda – 26814 ta ish, 2020 yilda – 23063 ta ish, 2021 yilda – 25680 ta ish, 2022 yilda – 23960 ta ish, 2023 yil 9 oyida – 9912 ta ish ko'rilgan¹ligi fuqarolarning takroran mast holda transport vositasini boshqarishi bilan bog'liq yo'l-transport hodisalari natijasida ko'plab fuqarolar jarohatlangan yoki halok bo'lganligi O'zR MJTK 131-moddasida nazarda tutilgan jazo choralari ushbu huquqbuzarliklarning oldini olish uchun yetarli emasligini, mazkur qilmishni takroran sodir etganlik uchun AQSh, Kanada JK VIII bob

¹ <https://stat.sud.uz>

320.14 (1)da, Germaniya JK 4-titul 28-bo'lim, 315s-bobda, Yaponiya JK 2-4-moddalarda, Rossiya JK 264.1-moddasida, Belorussiya JK 317-1-moddasida, Qozog'iston JKning 346-moddasida jinoiy jazo choralari nazarda tutilganligi bois asoslagan.

“Transport vositasini mast holda boshqarish: Haydovchi yoki transport vositalarini boshqarish huquqi bo'lmagan shaxs tomonidan transport vositalarini alkogolli ichimlikdan, giyohvandlik vositalari, ularning analoglari, psixotrop moddalar yoki shaxsning aql-idrokiga ta'sir ko'rsatuvchi boshqa moddalar ta'siri ostida o'zgacha tarzda mast holda boshqarishi, shunday qilmish uchun ma'muriy jazo qo'llanilganidan keyin sodir etilgan bo'lsa” degan mazmundagi yangi 266¹-moddani JKga kiritish zarurati mavjudligi isbotlangan.

Tadqiqotchi amaliyotda aksariyat qasddan odam o'ldirishning nomusga tegish bilan bog'liq holda sodir qilinayotganligini e'tiborga olib, O'zbekiston Respublikasi Oliy Sudi Plenumining “Qasddan odam o'ldirishga oid ishlar bo'yicha sud amaliyoti to'g'risida”gi qarorining 13-bandida “Sudlar shuni inobatga olishlari kerakki, nomusga tegish yoki jinsiy ehtiyojni zo'rlik ishlatib g'ayritabiiy usulda qondirish bilan bog'liq holda qasddan odam o'ldirishi, faqat aybdor nomusga tegish yoki jinsiy ehtiyojni zo'rlik ishlatib g'ayritabiiy usulda qondirishga va o'lim kelib chiqishi tariqasidagi oqibatga nisbatan to'g'ri qasd ko'rinishidagi ayb mavjud bo'lgandagina JK 97-moddasi ikkinchi qismining “z” bandi bilan kvalifikatsiya qilinadi. Bunda, qilmishni shu taqlid kvalifikatsiya qilish uchun nomusga tegish yoki jinsiy ehtiyojni zo'rlik ishlatib g'ayritabiiy usulda qondirish bilan bog'liq holda kelib chiqqan o'lim o'rtasida sababiy bog'lanish borligi aniqlanishi shart” degan tushuntirish berilishini taklif qilgan.

O'rganilgan jinoyat ishi materiallarining tahlili bugungi kunda nomusga tegish yoki jinsiy ehtiyojni zo'rlik ishlatib g'ayritabiiy usulda qondirish bilan bog'liq holda qasddan odam o'ldirish jinoyatida ijtimoiy xavfli qilmish va o'lim kelib chiqishi tariqasidagi oqibatga nisbatan to'g'ri qasd ko'rinishidagi ayb mavjudligi 52 %ni tashkil etishini ko'rsatdi¹.

O'zbekiston Respublikasi Oliy Sudi Plenumining “Nomusga tegish va jinsiy ehtiyojni g'ayritabiiy usulda qondirishga doir ishlar bo'yicha sud amaliyoti to'g'risida”gi qarorining 3-bandida “Nomusga tegish yoki jinsiy ehtiyojni g'ayritabiiy usulda qondirish paytida jabrlanuvchiga yengil, o'rtacha og'ir yoki og'ir shikast yetkazilishi tegishlicha JK 118-moddasi yoki 119-moddasi dispozitsiyasi bilan qamrab olinadi va JK 104, 105, 109-moddalari bilan qo'shimcha kvalifikatsiya qilishni talab etmaydi. Agar nomusga tegish yoki jinsiy ehtiyojni g'ayritabiiy usulda qondirish paytida jabrlanuvchiga og'ir shikast yetkazilsa, aybdorning harakatlari JK 118-moddasi yoki 119-moddasi 2-qism “z” bandi bilan qamrab olinadi va JK 104-moddalari bilan qo'shimcha kvalifikatsiya qilishni talab etmaydi” degan tushuntirish berilishini taklif qilgan.

O'rganilgan jinoyat ishi materiallarining tahlili bugungi kunda nomusga tegish yoki jinsiy ehtiyojni g'ayritabiiy usulda qondirish paytida jabrlanuvchiga yengil shikast yetkazilishi 77 %ni, o'rtacha og'ir shikast yetkazilishi 79 %ni yoki

¹ <https://public.sud.uz/report/CRIMINAL>

og'ir shikast yetkazilishi 87 %ni, tashkil etishini ko'rsatdi¹.

O'zbekiston Respublikasi Oliy Sudi Plenumining yuqoridagi qarorlari tegishli bandlariga taklif qilingan tushuntirishlarning berilishi Jinoyat kodeksining qonuniylik, odillik, insonparvarlik va javobgarlikning muqarrarligi prinsiplarini amalda to'g'ri qo'llanishiga olib keladi.

XULOSA

“Jinoyat tarkibi obyektiv tomonining nazariy va amaliy jihatlari” mavzusidagi dissertatsiya bo'yicha olib borilgan tadqiqotlar natijasida quyidagi nazariy va ilmiy-amaliy ahamiyatga ega bo'lgan xulosalarga kelindi:

I. Ilmiy-nazariy xulosalar:

1. Jinoyat tarkibi tushunchasining vujudga kelishi va tarixiy rivojlanishning barcha bosqichlarida (Rim huquqida “corpus delicti” (jinoyat tarkibi)ni aniqlashda yettita asosiy bandni o'zini ichiga oluvchi sxema (“Quis, quid, ubi, quando, cur, quomodo, quibus auxiliis”), nemis klassik jinoyat huquqida “Handlung oder Tatsache” (harakat yoki fakt), jinoyat (Verbrechen) va jinoyat tarkibi (Tatbestand) konsepsiyalari, jinoyat tarkibi to'g'risidagi “ilmiy abstraksiya”, “real jinoyat tarkibi”, “normativ yoki qonunchilik modeli” konsepsiyalari shakllanishida) jinoyat obyektiv tomoni belgilari markaziy o'rinni egallagan. Jinoyat tarkibi to'g'risidagi ta'limot shakllanishi(genezisi) va rivojlanishi, uning evolyusiyasida jinoyat obyektiv tomoni belgilari asosiy ekanligi bois *jinoyat tarkibi yadrosini jinoyat obyektiv tomoni belgilari* tashkil qiladi. Jinoyat tarkibining boshqa elementlari va belgilari jinoyat obyektiv tomoni belgilariga qarab aniqlanadi.

2. Jinoyat huquqi nazariyasi va jinoyat qonunchiligini o'rganish natijasida jinoyat tarkibi obyektiv tomonining quyidagi nazariy jihatlari asoslandi:

1) har qanday jinoyat tarkibi obyektiv tomoning yagona zaruriy belgisi *ijtimoiy xavfli qilmish(harakat yoki harakatsizlik)*dir. Jinoiy oqibat, sababiy bog'lanish, jinoyat sodir etish quroli va vositasi *jinoyat tarkibi obyektiv tomonining fakultativ belgilari* hisoblanadi, faqat moddiy tarkibli jinoyatlarda jinoiy qilmish, ijtimoiy oqibat va sababiy bog'lanish jinoyat tarkibi obyektiv tomoni zaruriy belgilaridir;

2) jinoyat sodir etish joyi, vaqti va usuli har qanday jinoyat tarkibi va uning elementi bo'lgan jinoyat tarkibi obyektiv tomonining mustaqil belgisidir. Har qanday jinoyat muayyan vaqtda, joyda, holatda va usulda sodir etiladi. Jinoyat tarkibi obyektiv tomonining mustaqil belgisi sifatida ularning jinoyat-huquqiy ahamiyati quyidagilarda namoyon bo'ladi:

jinoyat sodir etish joyi va vaqti jinoiy javobgarlikka tortishning umumiy shartlaridan biridir; *jinoyat sodir etish joyi* JK Maxsus qismi muayyan moddasi dispozitsiyasida nazarda tutilmagan bo'lsada, ba'zi jinoyatlarni to'g'ri kvalifikatsiya qilishga bevosita ta'sir qiladi; u jinoiy niyatning amalga oshirilganlik darajasi, bosqichlari va jinoyatning tamom bo'lgan paytini aniqlab beradi; u JK Maxsus qismi muayyan moddasida nazarda tutilgan usulni aniqlaydi va mazkur jinoyatni to'g'ri kvalifikatsiya qilinishga bevosita ta'sir qiladi; u ayrim

¹ <https://public.sud.uz/report/CRIMINAL>

qilmishlarni kvalifikatsiya qilishda jinoyat subyektiv tomonining zaruriy belgisi bo'lgan ayb va uning shakllarini aniqlashda muhim ahamiyat kasb etadi; *jinoyat sodir etish vaqti* formal, kesik, moddiy tarkibli, davomli va uzoqqa cho'zilgan jinoyatlarning tamom bo'lgan paytini aniqlab beradi; *jinoyat sodir etish usuli* ijtimoiy xavfli harakat yoki harakatsizlikning tashqi ifodalanish shaklidir. Usul mazmunni shakldan ajratib bo'lmagani kabi jinoiy harakat(harakatsizlik) bilan ham bir butun tizimda, bog'liqlikda bo'ladi. Har qanday jinoiy harakat (harakatsizlik) muayyan usul orqali sodir etiladi. Usul jinoiy harakat(harakatsizlik)ni tavsiflaydi.

3. Jinoyat tarkibi obyektiv tomoni va uning belgilariga quyidagicha mualliflik ta'rifi berilgan:

a) jinoiyat tarkibi obyektiv tomoni jinoiy tajovuzning ijtimoiy xavflilik xususiyati va darajasini ifodalaydigan, aniq joy, vaqt va holatlar sharoitlarida muayyan usulda, ba'zan qurol yoki boshqa vositalardan foydalanib sodir etilib, jinoyat qonuni bilan qo'riqlanadigin ob'ektga zarar yetkazadigan, ba'zan moddiy tarkibli jinoyatlarda zararli oqibat keltirib chiqaradigan ijtimoiy xavfli va huquqqa xilof qilmish(harakat yoki harakatsizlik)ning tashqi belgilarini o'zida ifodalaydigan, tavsiflaydigan obyektiv, ijtimoiy, yuridik ahamiyatga ega bo'lgan, muhim, yetarli va zarur belgilar yig'indisidan iborat jinoyat tarkibi tashqi tomoni(elementi)dir;

b) jinoyat sodir etish vaqti jinoyat sodir etilishi mumkin bo'lgan, sekund, minut, soat, sutka, oy kabi vaqt birliklari bilan o'lchanadigan u yoki bu davomiylikdagi muayyan bir davrdir. Jinoyat sodir etish vaqti JK Maxsus qismi muayyan moddasi dispozitsiyasida to'g'ridan-to'g'ri nazarda tutilgan bo'lsa, zaruriy belgi, nazarda tutilmagan bo'lsa, jinoyat tarkibi obyektiv tomonining mustaqil belgisi bo'ladi. Har qanday jinoyat muayyan bir vaqtda sodir etiladi;

d) jinoyat sodir etish joyi mamlakatning chegarasi bilan belgilangan jinoyat sodir etilgan aniq hudud(quruqlikda, suvda, xavoda yoki muayyan bo'shliq(makon))ga tegishli bo'lgan jinoyatning makon(joy)ga oid xususiyatini o'zida ifodalaydi. Shunday qilib, joyning jinoyat-huquqiy mazmuni ushbu so'zning umumiy qabul qilingan ta'rifiga to'liq mos keladi, ya'ni, bu nimadir joylashgan, sodir bo'ladigan (yoki bo'lgan, sodir etilgan) borliq(makon), joy hisoblanib, jinoyatning sodir etilish joyi jinoyat sodir sodir etilgan borliq, makon va joydir.

e) jinoyat sodir etish usuli jinoiy qilmish (harakat yoki harakatsizlik)ning tavsifini ifodalaydigan jinoyatni sodir etishda qo'llanilgan hatti-harakat, ish(operatsiya), usullar majmui, harakatlarga yunaltirilgan, bir-bir bilan bog'liq bo'lgan usul va uslublar tizimidir.

4. jinoiy harakatsizlik: sof harakatsizlik; aralash harakatsizlikga ajratilgan. "Sof" harakatsizlikka JK 221 va 279-moddalaridagi jinoyatlarni keltirish mumkin. Bunda qonunda belgilangan harakatni bajarmaslik, ijtimoiy xavfli oqibat ro'y bergan yoki bermaganligidan qat'i nazar, ijtimoiy xavfli qilmish sodir etilgan hisoblanadi. "Aralash" harakatsizlikka JK 260 va 266-moddalaridagi qilmishlarni keltirish mumkin.

5. Ijtimoiy xavfli oqibatning jinoyat-huquqiy ahamiyati quyidagilarda namoyon bo'ladi: 1) jinoyat va boshqa huquqbuzarliklarni farqlovchi belgi sifatida xizmat qiladi; 2) qilmishni kriminalizatsiya qilishning asosiy mezonini sifatida

qonunchilikda belgilanadi. Ijtimoiy xavfli oqibat miqdori va xususiyati qilmishni jinoyat deb topish shartlaridan biri hisolanadi, ya'ni u jinoyatning ijtimoiy xavflilik darajasini belgilovchi asosiy mezonlardan biri hisoblandi; 3) qilmishni kvalifikatsiya qilishda (jinoyat tarkibi zaruriy belgisi sifatida) va jinoiy javobgarlik miqdorini belgilashda (jazoni yengillashtiruvchi va og'irlashtiruvchi holatlarda) muhim ahamiyat kasb etadi: 1) ijtimoiy xavfli oqibatning jinoyat qonunchiligi tegishli normasida to'g'ridan-to'g'ri nazarda tutilishi yoki nazarda tutilmasligi muayyan jinoyat tarkibi tuzilishining o'ziga xosligini namoyon qiladi; 2) ijtimoiy xavfli oqibatni jinoyat qonunchiligi tegishli normasida to'g'ridan-to'g'ri nazarda tutilishi uni aniqlash lozimligini anglatadi va qonunni qo'llash vakolatiga ega subyektlar faoliyatida (dastlabki tergov va sud) isbotlanishi talab qiladi; 3) moddiy tarkibli jinoyatlar sodir etilganida jinoyat qonunchiligida nazarda tutilgan jinoiy oqibat kelib chiqmasa, mazkur jinoyatlar subyektiv tomon zaruriy belgisi bo'lgan aybni inobatga olgan holda kvalifikatsiya qilinishi lozim: – to'g'ri qasd bilan sodir etilgan jinoyatlarda qonunda nazarda tutilgan oqibat kelib chiqmaganida, qilmish jinoyat sodir qilishga suiqasd sifatida kvalifikatsiya qilanadi; – egri qasddan sodir etilgan jinoyatlar haqiqatda kelib chiqqan faktik oqibatlarga qarab kvalifikatsiya qilinadi; – ehtiyotsizlik bilan sodir etilgan jinoyatlarda ijtimoiy xavfli oqibat ro'y bermasa, jinoiy javobgarlik vujudga kelmaydi; – jinoiy oqibatning kelib chiqishi ba'zan jinoyatning javobgarlikni og'irlashtiruvchi holatlarda sodir etilganligini anglatadi(jinoyat tarkibining javobgarlikni og'irlashtiruvchi(kvalifikatsiyaviy) belgisi); 4) jinoiy oqibat jinoyatning ijtimoiy xavflilik darajasini belgilovchi asosiy mezon bo'lib, u qilmishning ijtimoiy xavflilik darajasiga ta'sir qiladi. Jumladan, oqibatlar qanchalik og'ir bo'lsa, muayyan jinoyatning ijtimoiy xavflilik darajasi shunchalik yuqori bo'ladi. 5)jinoiy oqibat jinoyat qonunchiligi tegishli normasida nazarda tutilmagan bo'lsa, muayyan jinoyat tarkibining zaruriy belgisi hisoblanmasa, u jazo tayinlashda jazoni og'irlashtiruvchi yoki yengillashtiruvchi holat sifatida inobatga olinishi mumkin.

6. Sababiy bog'lanish to'g'risidagi nazariyalar, konsepsiyalar, sababiy bog'lanish mavjudligini aniqlashda sababiyat zanjiri, shart-sharoitlar, mezon va qoidalarni tadqiq etish natijasida shaxsning jinoiy xulq-atvori va ijtimoiy xavfli, huquqqa xilof oqibat(natija) o'rtasidagi sababiy bog'lanishning xilma-xil to'rtta shakli ajratilgan va ularni quyidagi formulalarda ifodalashga harakat qilingan:

a) faol xulq-atvor – faol oqibat(natija) (F-F). (masalan, o't qo'yish orqali mulkni qasddan nobud qilish yoki unga zarar yetkazish. Aybdor faol harakat sodir etib, avtotransport vositasiga o't qo'yishi natijasida u yonib ketadi);

b) faol xulq-atvor – nafaol oqibat(natija) (F-N). Faol ijtimoiy xavfli harakat ba'zida ijtimoiy xavfli bo'lgan faol yoki nafaol oqibatni keltirib chiqarishi mumkin (masalan, soliq yoki yig'implarni to'lashdan bo'yin tovlashdagi hujjatlarni qalbakilashtirish(soliq solinadigan obyektlarni kamaytirib ko'rsatish yoki yashirish)ni misol sifatida keltirish mumkin.

d) nafaol(passiv) xulq-atvor – faol(aktiv) natija (N-F), unda shaxsning nafaol xulq-atvori(harakatsizlik) jinoyatning asosiy sabablardan biri bo'ladi, atrof muhitdagi o'zgarishlar ro'y bergan oqibat(natija) sifatida baholanadi (masalan,

kasalga yordam ko'rsatishi shart bo'lgan shifokorning harakatsizligi oqibatida odam o'lishi);

e) nofaol xulq-atvor – nofaol oqibat(natija) (N-N), unda sodir etilgan harakatsizlik bilan ro'y bergan oqibat o'rtasida aniq sababiy bog'lanishning mavjud emasligi tufayli bu ilmiy yondashuvda jinoyat huquqi nazariyasida munozaralarga sabab bo'lib kelmoqda, ammo mazkur ilmiy yondashuvda sabab – shart-sharoitlar majmuida, sababiyat o'zaro bog'liqlikda vujudga keladi. Jinoyat qonuni bilan qo'riqlanadigan obyekt tizimi(sistemasiga aloqador bo'lsa, o'sha shaxs javobgarlikka tortilishi lozim bo'ladi(masalan, suzishni bilmaydigan shaxsni suvga tushishga kim ko'ndirgan bo'lsa yoki suvda cho'kayotgan odamlarni qutqarish majburiyati belgilangan kasb egasi o'sha kuni navbatchi bo'lsa).

7. Jinoyat huquqi nazariyasi va qonunni qo'llash amaliyotida sababiy bog'lanish muammosini hal etish hamda uni ijtimoiy xavfli qilmish va oqibat o'rtasida bog'liqlikni aniqlash uchun quyidagi qoidalar va prinsiplar qo'llanishi lozimligi asoslanadi:

1) *jinoiy qilmish–vaqt–ijtimoiy xavfli oqibat qoidasi*. Qilmish va jinoiy oqibat o'ziga xos vaqt ketma-ketligida bo'lib, qilmish albatta jinoiy oqibatdan oldin sodir etilganligi aniqlanish lozim;

2) *hodisalarning sun'iy izolyatsiyasi prinsipi*(“*but-for test*”), ya'ni hodisalarni sun'iy ravishda ajratib olish tamoyili qo'llanishi kerak. Bu tamoyil o'ziga xos qoidalar “uch”ligi dan iborat bo'lib, birinchidan, shaxs xulq-atvori ajratib olinishi lozim, chunki uning xulq-atvori jinoiy xulq-atvor bo'lsa, jinoiy qilmish kelib chiqqan oqibatning zaruriy sababi hisoblanadi. Ikkinchidan, sabablar(sababiy bog'lanish) zanjiridan zaruriy shart-sharoitlar ajratib olinishi kerak, chunki zaruriy shart-sharoit zaruriy sababga ko'maklashuvchi kategoriya hisoblanadi. Uchinchidan, kelib chiqqan oqibat ajratib olinishi lozim. Shuningdek, maxsus mantiqiy izolyatsiya qoidasini qo'llash, ya'ni shaxs xulq-atvori va kelib chiqqan oqibat yakkalab mantiqan maxsus ajratib olinishi kerak. Ijtimoiy xavfli harakat yoki harakatsizlik va yuz bergan jinoiy oqibat o'rtasida sababiy bog'lanish mavjudligi aniqlanishi lozim bo'ladi. Bunda birinchi navbatda jinoiy xulq-atvor va yuzaga kelgan jinoiy oqibatni boshqa hodisalarning butun tizimidan ajratib olinishi kerak;

3) *“oqibat–qilmish” prinsipi*. Bu tamoyil jinoiy oqibatdan qilmishga qarab borish metodini qo'llashdir. Bu uslubda boshlang'ich nuqta jinoiy oqibat deb belgilanishiga sabab birinchidan, dastlabki tergov amaliyotida zararli oqibatni keltirib chiqqan jinoyat avvalo oqibatning aniqlanishi bilan bog'liqdir. Masalan, hayot uchun muhim bo'lgan a'zo(yurak)ga pichoq urilgan murdaning topilishi. Ikkinchidan, sababiy bog'lanish muayyan sabablar zanjiridan iborat bo'lib, uni bilish va aniqlash uchun bir zanjir bo'lagidan ikkinchisiga o'tish lozim bo'ladi. Shuning uchun “oqibat–qilmish” tamoyili, ya'ni kelib chiqqan oqibatdan qilmishga qarab yo'nalish tamoyilini qo'llanilishi lozim;

4) *“mantiqiy istisno va inkor” qoidasi*, sababiy bog'lanishning oltin qoidasi bo'lgan “mantiqiy(hayolan) istisno va inkor” qoidasi bo'lib, unga ko'ra muayyan jinoiy qilmish ijtimoiy xavfli oqibatni keltirib chiqqanidagina sababiy bog'lanish mavjud bo'ladi, ya'ni ijtimoiy xavfli qilmish sodir etilmasa, jinoiy oqibatning kelib

chiqishi ham mumkin emas.

8. Qilmishni kvalifikatsiya qilishda jinoyat tarkibi obyektiv tomoni fakultativ belgilarining “an’anaviy uchligi”: 1) qonun chiqaruvchi tomonidan jinoyat obyektiv tomoni fakultativ belgilari JK Maxsus qismi muayyan moddasi dispozitsiyasida jinoyat tarkibining zaruriy belgisi sifatida nazarda tutilganligi; 2) jinoyat obyektiv tomoni fakultativ belgilarining JK Maxsus qismi muayyan moddasida jinoyat tarkibi (obyektiv tomon)ning javobgarlikning og‘irlashtiruvchi (kvalifikatsiyaviy) zaruriy belgi sifatida nazarda tutilganligi; 3) jinoyat qonunida jinoyat tarkibi obyektiv tomonining fakultativ belgilari jazoni yengillashtiruvchi yoki og‘irlashtiruvchi holat sifatida (JK 55-56-moddalarida) nazarda tutilganligi asoslangan.

II. Jinoyat qonunchiligini takomillashtirishga qaratilgan takliflar:

1. JK VIII bo‘lim “Atamalarning huquqiy ma‘nosi”da **harakat, harakatsizlik va aralash harakatsizlik** tushunchalarini quyidagicha bayon qilish taklif qilingan:

“Harakat – shaxsning ijtimoiy xavfli, huquqqa xilof, ongli, irodaviy va murakkab xususiyatga ega tashqi faol xulq-atvori.

Harakatsizlik – shaxsning normativ hujjatlarida, sud qarorida, shaxs o‘z harakatlari tufayli yoki xizmat, kasbiy yoxud mansab vazifalari va majburiyatlarida bajarishi shart qilib belgilangan muayyan harakatlarni real imkoniyatga ega bo‘la turib bajarmaslikda ifodalangan ijtimoiy xavfli, huquqqa xilof, ongli, irodaviy va murakkab xususiyatga ega tashqi sust xulq-atvori.

Aralash harakatsizlik – shaxsning ongli, irodaviy tashqi faol xulq-atvordan iborat oldingi harakati tufayli Jinoyat kodeksi bilan qo‘riqlanadigan obyektlarga zarar yetkazilishi oqibatida unda nazarda tutilgan zararli, ijtimoiy xavfli oqibat keltirib chiqaradigan va bajarishi shart qilib belgilangan muayyan harakatlarni real imkoniyatga ega bo‘la turib bajarmaslikda ifodalangan harakatsizlikda ularni oldini olmaydigan, harakat va harakatsizlik majmui.”

2. JK Umumiy qismiga yangi 16¹-moddani kiritish taklif qilingan:

“16¹-modda. Jinoyat tarkibi

Jinoyat tarkibi o‘zida ijtimoiy xavfli qilmish(harakat yoki harakatsizlik)ni muayyan jinoyat sifatida xarakterlovchi Jinoyat kodeksi Maxsus qismi moddasida nazarda tutilgan obyektiv hamda subyektiv belgilarning zarur va yetarli majmuini ifodalaydi.

Jinoyat tarkibi amaldagi Kodeksning muayyan moddasi bilan jinoyatni kvalifikatsiya qilish uchun huquqiy asos hisoblanadi.”

3. JK Umumiy qismi 56-moddasiga quyidagi bandlarning kiritilishi asoslangan:

“p) qurol, o‘q-dorilar, portlovchi moddalar, portlatish qurilmalari, portlatish yoki ularga o‘xshatib yasalgan moslamalardan foydalangan holda;

r) hokimiyat vakilining xizmat kiyimi yoki hujjatidan foydalangan holda;

4. JK 110-moddasi 2-qismiga quyidagi bandlarning kiritilishi taklif qilingan:

“g) ta‘lim, tibbiyot, ijtimoiy xizmatlar yoki boshqa muassasalarda yosh bolaning tarbiyasi, o‘qishi va sog‘lig‘i uchun mas‘ul bo‘lgan xodim tomonidan sodir etilgan bo‘lsa;

5. JK 118- va 119-moddasi 2-qismiga quyidagi bandlarning kiritilishi taklif qilingan:

“e) o‘zida tanosil yoki boshqa yuqumli kasalligi borligini bila turib, bu kasallik jabrlanuvchiga yuqishiga sabab bo‘lsa;

j) o‘ta shafqatsizlik bilan sodir etilgan bo‘lsa;

z) badanga og‘ir shikast yetkazgan holda sodir etilgan bo‘lsa.”

6. JK 118- va 119-moddasi 4-qismiga quyidagi bandlarning kiritilishi taklif qilingan: a) o‘n to‘rt yoshga to‘lmaganligi aybdorga ayon bo‘lgan;

b) ehtiyotsizlik oqibatida jabrlanuvchining o‘limiga sabab bo‘lsa.”

7. JK 131-moddasi 3-qismini quyidagi tahrirda bayon etish taklif qilingan:

Ushbu moddaning birinchi yoki ikkinchi qismida nazarda tutilgan harakatlar:

“a) bir guruh shaxslar tomonidan oldindan til biriktirib; b) xizmat mavqeidan foydalangan holda;

v) ta‘lim, tibbiyot, ijtimoiy xizmatlar ko‘rsatuvchi yoki boshqa muassasalarda yoxud ko‘ngilochar obyektlar joylashgan boshqa joylarda sodir etilgan bo‘lsa.”

8. JK 155-moddasi 3-qismiga quyidagi bandlarning kiritilishi taklif qilingan:

“Ushbu moddaning birinchi yoki ikkinchi qismida nazarda tutilgan harakatlar:

v) yadroviy, radioaktiv, kimyoviy, biologik, portlovchi, kuchli ta‘sir qiluvchi zaharli moddalar yoki materiallar va ommaviy qirg‘in qurollaridan yoxud portlatish qurilmalardan foydalangan holda sodir etilgan bo‘lsa.”

9. JK 169-moddasi 2-qismi “v” bandiga “uy-joyga, omborxonada, boshqa xona yoki transport vositasiga g‘ayriqonuniy ravishda kirgan holda” deb berilishi maqsadga muvofiq. Shuningdek, JK 164-moddasi 3-qismi “v” bandiga va 166-moddasi 3-qismi “b” bandiga “uy-joyga, omborxonada, boshqa binolarga g‘ayriqonuniy kirgan holda yoxud transport vositasida sodir etilgan bo‘lsa” degan o‘zgartishlar kiritish maqsadga muvofiq.

10. JKni quyidagi mazmundagi 227¹-modda bilan to‘ldirish taklif qilingan:

“227¹-modda. Avtomototransport vositalarining va ular tirkamalari (yarim tirkamalari)ning davlat raqam belgilari yoxud identifikatsiya raqamlarini tayyorlash, qalbakilashtirish, sotish yoki ulardan foydalanish

Qonunga xilof tarzda avtomototransport vositalarining va ular tirkamalarining (yarim tirkamalarining) davlat raqam belgilari yoxud identifikatsiya raqamlarini tayyorlash, qalbakilashtirish, ularni o‘tkazish yoki foydalanish, –

bazaviy hisoblash miqdorining yuz baravaridan ikki yuz baravarigacha jarima yoki uch yilgacha ozodlikdan mahrum qilish bilan jazolanadi.”

11. JK 229-moddasini quyidagi mazmundagi 2- va 3-qismlar qismlar bilan to‘ldirish taklif qilingan: *“O‘sha harakatlar:*

a) zo‘rluk ishlatib yoki zo‘rluk ishlatish bilan qo‘rqitib;

b) telekommunikatsiya tarmoqlaridan, shuningdek Internet butunjahon axborot tarmog‘idan foydalanib tarqatilgan holda sodir etilgan bo‘lsa, –

bir yildan uch yilgacha ozodlikdan mahrum qilish bilan jazolanadi.”

Ushbu moddaning birinchi yoki ikkinchi qismida nazarda tutilgan harakatlar badanga og‘ir shikast yetkazilishiga yoxud boshqa og‘ir oqibatlarga sabab bo‘lsa,

–

uch yildan besh yilgacha ozodlikdan mahrum qilish bilan jazolanadi.”

12. JKni quyidagi mazmundagi 266¹-modda bilan to‘ldirish taklif qilingan:

“266¹-modda. Transport vositasini mast holda boshqarish

Haydovchi yoki transport vositalarini boshqarish huquqi bo‘lmagan shaxs tomonidan transport vositalarini alkogolli ichimlikdan mast holda yoki giyohvandlik vositalari, ularning analoglari, psixotrop moddalar yoki shaxsning aql-idrokiga ta’sir ko‘rsatuvchi boshqa moddalar ta’siri ostida boshqarishi, shunday qilmish uchun ma’muriy jazo qo‘llanilganidan keyin sodir etilgan bo‘lsa,

bir yildan uch yilgacha ozodlikdan mahrum qilish bilan jazolanadi.”

13. JK 266-moddasi 3-qismiga quyidagi bandni kiritilishi taklif qilingan:

“O‘sha qilmish:

g) alkogolli ichimlikdan yoki giyohvandlik vositalari, psixotrop moddalar yoki ularning analoglari yoxud shaxsning aql-idrokiga ta’sir ko‘rsatuvchi boshqa moddalar ta’siri ostidagi mastlik holatida sodir etilishi natijasida odam o‘limga sabab bo‘lsa.”

III. Sud-tergov organlari amaliyotini takomillashtirishga qaratilgan takliflar:

1. O‘zbekiston Respublikasi Oliy Sudi Plenumining “Qasddan odam o‘ldirishga oid ishlar bo‘yicha sud amaliyoti to‘g‘risida”gi qarorining 13-bandini quyidagi qism bilan to‘ldirish:

“Sudlar shuni inobatga olishlari kerakki, nomusga tegish yoki jinsiy ehtiyojni zo‘rlik ishlatib g‘ayritabiiy usulda qondirish bilan bog‘liq holda qasddan odam o‘ldirishi, faqat aybdor nomusga tegish yoki jinsiy ehtiyojni zo‘rlik ishlatib g‘ayritabiiy usulda qondirishga va o‘lim kelib chiqishi tariqasidagi oqibatga nisbatan to‘g‘ri qasd ko‘rinishidagi ayb mavjud bo‘lgandagina JK 97-moddasi ikkinchi qismining “z” bandi bilan kvalifikatsiya qilinadi. Bunda, qilmishni shu taqlid kvalifikatsiya qilish uchun nomusga tegish yoki jinsiy ehtiyojni zo‘rlik ishlatib g‘ayritabiiy usulda qondirish bilan bog‘liq holda kelib chiqqan o‘lim o‘rtasida sababiy bog‘lanish borligi aniqlanishi shart.”, degan mazmundagi tushuntirish berilishi maqsadga muvofiqdir.

2. O‘zbekiston Respublikasi Oliy Sudi Plenumining “Nomusga tegish va jinsiy ehtiyojni g‘ayritabiiy usulda qondirishga doir ishlar bo‘yicha sud amaliyoti to‘g‘risida”gi qarorining 3-bandini quyidagi qism bilan to‘ldirish taklif qilindi:

“Nomusga tegish yoki jinsiy ehtiyojni g‘ayritabiiy usulda qondirish paytida jabrlanuvchiga yengil, o‘rtacha og‘ir yoki og‘ir shikast yetkazilishi tegishli va JK 118-moddasi yoki 119-moddasi dispozitsiyasi bilan qamrab olinadi va JK 104, 105, 109-moddalari bilan qo‘shimcha kvalifikatsiya qilishni talab etmaydi. Agar nomusga tegish yoki jinsiy ehtiyojni g‘ayritabiiy usulda qondirish paytida jabrlanuvchiga og‘ir shikast yetkazilsa, aybdorning harakatlari JK 118-moddasi yoki 119-moddasi 2-qism “z” bandi bilan qamrab olinadi va JK 104-moddalari bilan qo‘shimcha kvalifikatsiya qilishni talab etmaydi.”

**SCIENTIFIC COUNCIL AWARDING OF THE SCIENTIFIC
DEGREES DSc.07/13.05.20.Yu.22.03 AT TASHKENT STATE
UNIVERSITY OF LAW**

TASHKENT STATE UNIVERSITY OF LAW

KHUDAYKULOV FERUZBEK KHURRAMOVICH

**THEORETICAL AND PRACTICAL ASPECTS OF OBJECTIVE
SIDE OF CORPUS DELICTI**

12.00.08 – Criminal Law. Criminology. Criminal-executive law

ABSTRACT
of doctoral (Doctor of Science) dissertation on legal sciences

Tashkent – 2023

The theme of the doctoral dissertation (DSc) was registered at the Supreme Attestation Commission at the Ministry of higher education, science and innovations of the Republic of Uzbekistan under number B2021.4.DSc/Yu185.

The dissertation is prepared at Tashkent State University of Law.

The abstract of the dissertation is posted in three languages (Uzbek, English, Russian (summary)) on the website of the Scientific Council (www.tsul.uz) and Information educational portal "ZiyoNET" (www.ziynet.uz).

Scientific consultant:	Abdurasulova Qumriniso Raimkulovna Doctor of Science in Law, Professor
Official opponents:	Rustambaev Mirzayusup Xakimovich Doctor of Science in Law, Professor Kabulov Rustam Doctor of Science in Law, Professor Abduqodirov Sherzod Yoqubjonovich Doctor of Science in Law, Associate Professor
The leading organization:	The Supreme School of Judges with the Supreme Judicial Council of the Republic of Uzbekistan

The defense of the dissertation will be held on December 15, 2023 at 14⁰⁰ at the Session of the Scientific Council DSc.07/13.05.20.Yu.22.03 at the Tashkent State University of Law (Address: 100047, Sayilgokh street, 35. Tashkent city. Phone: +99871 233-66-36; Fax: +99871 233-37-48; e-mail: info@tsul.uz).

The doctoral dissertation is available at the Information Resource Center of Tashkent State University of Law (registered under No. 1200), (Address 100047, Amir Temur Street, 35. Tashkent city. Phone: +99871 233-66-36).

The abstract of the dissertation distributed on November 30, 2023.

(Registry protocol No.11 on November 30, 2023).

A.A. Otajonov
Chairman of the Scientific Council for
awarding scientific degrees, Doctor of
Science in Law, Professor

M.K. Urazaliev
Secretary of the Scientific Council for
awarding scientific degrees, Doctor of
Science in Law, Professor

N.S. Salaev
Chairman of the Scientific Seminar
under the Scientific Council for
awarding scientific degrees, Doctor of
Science in Law, Professor

INTRODUCTION (abstract of DSc thesis)

The actuality and relevance of the dissertation theme. In the world, combat crime and its prevention are gaining global importance, due to taking effective measures against it, to study the causes and conditions of crime, to determine the internal and objective (external) side of the crime is the great scientific and practical importance. Unfortunately, in recent years, the indicators of the quantity and quality of crimes have been increasing all over the world and in most countries. The crime rate per 100,000 people was 49.2 in the USA, 46.9 in England, 38 in Germany, 54.5 in France, 47.3 in Italy, 22.6 in Japan, 39.7 in Russia and 31.3 in Uzbekistan. In the last three years, the crime rate in Uzbekistan has increased by 45.24%¹. According to the United Nations Office on Drugs and Crime (UNODC), every year in the world half a million crimes are committed through socially dangerous forms and methods and most of them end with murder². In the international acts, attention is paid to the revision of the legislation in order to correctly express the liability for the crime in the law, to facilitate the law enforcement practice as much as possible³. The above depicts that the priority tasks are to improve the criminal legislation, to ensure the correct application of the rules of the Criminal Code and the imposition of a fair punishment.

It is gaining actual importance that as an essential direction of increasing the effectiveness of crime prevention in the world, improving the criminal and legal measures to combat crime, in particular, the rules of the criminal law; studying the theoretical and practical aspects of the objective side of the corpus delicti and related scientific and theoretical views, classifying the signs of the objective side of the corpus delicti; researching the signs of the forms of the criminal act (action or inaction), the nature and structure of the emergence of socially dangerous act, the legal causation between the criminal act and the consequences and the chain of causality, conditions, criteria and rules for its determination; the importance of the objective side of the crime in the qualification of the act as a necessary and aggravating (qualifying) circumstance of liability; improving the theoretical and practical issues of the qualification of the act according to the objective side of the corpus delicti and related rules of the criminal law; improving the law enforcement practice; finding the scientific and practical solution to the decriminalization of crimes and the liberalization of criminal law and judicial investigation practice.

Combating crime in our republic a number of targeted measures are being implemented that reforming criminal legislation, improving the law enforcement practice of criminal law rules, paying great attention to strengthening application of the principles of legality, equality of citizens before the law, democracy, humanity, justice, liability for guilt and the inevitability of liability in the activities of law enforcement and judicial bodies, significant work is being done in this regard, and this area is being developed to a certain extent. In particular, “Consistently continuing the policy of improving the criminal, criminal-procedural and criminal executive legislation, widely introducing the principle of humanitarianism into the system of criminal punishments

¹ https://www.numbeo.com/crime/country_result.jsp?country=Uzbekistan

² <https://www.unodc.org>, <https://wisevoter.com/country-rankings/violent-crime-rates-by-country>

³ <https://www.unodc.org>

and their execution, making the principle of “law – priority, punishment – inevitable” the main criteria for the development of the criminal legislation of country”¹ the fact that it is defined as priority areas indicates that there is a need for research in this area.

This research work contributes to the implementation of the tasks stipulated in the Law of the Republic of Uzbekistan “On Protection of Women from Harassment and Violence” (2019), “On Weapons” (2019), in the Decree of the President of the Republic of Uzbekistan ‘On measures to further reform the judicial system, strengthen basics of reliable protection of rights and freedoms of citizens” (2016), “On measures to raise the quality of the activities of internal affairs bodies to a new level in the sphere of providing public safety and combat crime” (2021), “On the Development Strategy of New Uzbekistan for 2022-2026” (2022), the Resolution of the President of the Republic of Uzbekistan “On measures to further improve the crime prevention and crime combating system” (2017), “On measures to fundamentally improve the system of criminal and criminal-procedural legislation” (2018), “On additional measures to improve the personnel training system in the sphere of crime prevention and public safety” (2019) and other normative legal acts related to the research theme.

The dependence of the research on the priority areas of development of science and technologies in the country. This research was carried out in the priority direction of the development of science and technology of the republic I “Formation a system of innovative ideas and ways to implement them in the social, legal, economic, cultural, spiritual and educational development of an informed society and a democratic state”.

Review of foreign research on the theme of the dissertation². The objective side of the crime and the corpus delicti, that is, the socially dangerous act (act or inaction) and the consequence, the legal causation between the criminal act and the consequence, scientific research aimed at improving the concepts of “corpus delicti” and “actus reus” and related criminal legislation is being implemented in international, scientific and educational institutions, including United Nations Office on Drugs and Crime (UNODC), Violence Research Centre of Cambridge University (UK), Case Western Reserve University (USA), Law Government Gun Crime Prevention Research Center (USA), Canadian Domestic Homicide Prevention Initiative (Canada), Moscow State University named after M.V.Lomonosov (RF), People’s Friendship University of Russia (RF), Immanuel Kant Baltic Federal University (RF), Tashkent State University of Law.

The scientific results have been achieved in researches related to the study of the theoretical and practical aspects of the objective side of corpus delicti. For instance, recognition of the act as a crime, introduction of new rules into the criminal law for the effective protection of a person, his rights and freedoms, the interests of society and the

¹ Decree No. PF-60 of the President of the Republic of Uzbekistan “On the Development Strategy of New Uzbekistan for 2022-2026”, adopted on January 28, 2022 // National database of legislation of the Republic of Uzbekistan, 21.04.2022, No. 06/22/113/0330 // <https://lex.uz/docs/5841063>

² Foreign scientific research on the theme of the dissertation has been done on the basis of the following sources: <https://www.unodc.org>, <https://www.vrc.crim.cam.ac.uk>, <https://case.edu>, <https://theses.bham.ac.uk>, <https://crimeresearch.org>, <http://cdhpi.ca>, <https://www.msu.ru>, <http://www.apu.fsin.su>, <https://msal.ru>, <https://csu.ru>, <https://www.rsu.edu.ru>, <http://vuit.ru>, <http://www.rudn.ru>, <https://www.kantiana.ru>, kazcrim@netmail.kz, <https://http://crimas.ru>

state, property, the natural environment, peace, and human security from criminal attacks and that the objective side of the corpus delicti is important in the improvement, the internal side of the crime is determined by the signs of its external side, as well as combating crime, reforming and improving criminal law, the need to carry out regional researches to improve the law enforcement practice of criminal law (UN Office on Drugs and Crime); the role and importance of the use of violence in the commission of a crime, which is a sign of its external aspect (Violence Research Centre of Cambridge University); “Actus Reus” (criminal act) is an objective criterion for bringing a person to criminal liability (Case Western Reserve University); legal causation is important in criminal law (Birmingham Law School of Birmingham University); the presence of a factor of the use of a firearms in the commission of a crime and its illegal handling (Law Government Gun Crime Prevention Research Center); general doctrine on the objective side of crime (Rostov State University); the social danger of the act in Russian criminal law (People’s Friendship University of Russia); inaction as a form of criminal aggression: issues of liability under the legislation of the Russian Federation and the Republic of Kazakhstan (Chelyabinsk state university); criminal-legal and criminological aspects of criminal inactivity (Ryazan State University named after S.A. Yesenin); consequences of a crime in Russian criminal law, socially dangerous act in criminal law (Volga University named after V.N. Tatishchev); forms and types of criminal acts, causation in criminal law: theoretical and practical problems (Moscow State Law University named after O.E. Kutafin), the importance and role of individual prevention of crimes committed using violence as a method of committing crime (Criminological Association of Kazakhstan); improvement of the theoretical and practical aspects of the objective sides of the corpus delicti (Tashkent State University of Law) conclusions are formed and justified.

In the world, corpus delicti according to the objective side: “Actus reus” (criminal act) is an objective criterion for bringing a person to criminal liability; “Actus reus” (criminal act) and its application in European criminal law; legal aspects of “volitional emotion” (from mens rea (guilty mind) to “actus reus” (guilty deed)) as the main cause of the crime; causation in English criminal law (legal causation); social dangerousness of the act in Russian criminal law; inaction as a form of criminal aggression; criminal inactivity: criminal-legal and criminological aspects; consequences of a crime in Russian criminal law, a socially dangerous act; forms and types of criminal acts; causation in criminal law: research is being conducted in the priority areas devoted to theoretical and practical problems.

The extent of the study of the research problem. The theoretical and practical aspects of the objective side of the corpus delicti are among the priorities of both national and world criminal law science. In our country, the theoretical and practical aspects of the objective side of the corpus delicti, as well as the issues of qualification of actions according to the objective side of the corpus delicti and its specific criminal-legal significance have been studied very little.

General aspects of the objective side of the corpus delicti in our country have been researched by the scientists such as, M.H.Rustambaev, M.Usmonaliev, P.Bakunov, A.S.Yakubov, O.Kh.Rasulov, R.A.Zufarov, R.Kabulov, N.S.Salaev, M.K.Urazaliyev, A.A.Otajonov, T.R.Kuchkarov, F.Takhirov, S.S.Niyozova, E.O.Turgunboev,

H.Abzalova, G.Akhmedova, S.S.Nayimov, A.K.Irkakhodjaev, U.Sh.Kholikulov, K.B.Hakimov, Sh.D.Khaidarov, R.S.Altiev, H.R.Ochilov and others¹.

The scientists of CIS member states, such as, N.S.Tagansev, N.F.Kuznesova, T.V.Sereteli, G.Kruger, L.L.Kruglikov, N.I.Panov, V.I.Gurov, A.V.Naumov, V.S.Komissarov, A.I.Korobeev, He Binsun, A.I.Boysov, F.Mikhailov, S.I.Ulezko, M.V.Shkele, K.L.Akoev, M.A.Atalyans, N.F.Mikhailov, B.V.Zdravomyslov, A.I.Boyko, A.P.Kozlov, V.B.Malinin, A.F.Parfenov and others have been researched special types of necessary and facultative signs of the objective side of the corpus delicti. The scientific work of A.N.Trainin, G.V.Timeyko, I.Renneberg, V.N.Kudryavsev, M.I.Kovalev, A.N.Popov, L.A.Zimireva, P.V.Fedishina and others² on the subject should also be mentioned.

“Actus reus” (criminal act), criminal consequences and their signs, issues related to the problems of legal causation have been researched by scientists such as G.P.Fletcher, James Mangiafico, Paul H.Robinson, A.C.E. Lynch, Michael S. Moore, Douglas N.Husak, Herbert Morris, Michael Gorr, Arnold N. Anker, Sir William Blackstone, Glanville Williams, H.L.A. Foreign Hart, Michael Corrado, Oliver Wendell Holmes, J.W.Cicil Turner, John Austin³.

At the same time, in the researches carried out by these scientists, specific types of some signs of the objective side of the corpus delicti were researched, the special aspects of the objective side of the corpus delicti were not comprehensively researched at the level of dissertation research, the objective side of the corpus delicti in our republic a comprehensive monographic research on theoretical and practical aspects has not been conducted.

Relation of the dissertation’s theme to the scientific-research work of higher education institution where it was implemented. The theme of the dissertation was carried out within the basis of the fundamental project (2020-2022) of the research plan of Tashkent State University of Law on the theme “Innovative methods and means of combating crime and prevention”.

The aim of the research is to find a solution to the problems identified based on a comprehensive research of the theoretical and practical aspects of the objective side of the corpus delicti, to develop proposals and recommendations for improving the relevant rules of the Criminal Code.

The tasks of the research:

to study the bases of the formation (genesis) and development (evolution) of the doctrine of the signs of the objective side of the corpus delicti;

to describe the concept and essence of the objective side of the corpus delicti and to analyze the theoretical approaches related to them;

to research the types of necessary and optional features of the objective side of the corpus delicti and their composition (structure);

to analyze the objective side of the corpus delicti and the notion of “actus reus”;

to study the criminal act (act and inaction), its consequences and their nature, types and structure;

¹ The works of these scientists are listed in the reference

² The works of these scientists are listed in the reference

³ The works of these scientists are listed in the reference

to research the theories and their problems of causation in criminal law, the criteria and rules for determining causation;

to develop the proposals and recommendations on solutions to the problems of causality in inactivity;

to analyze the legal structure (construction) of the objective side of the corpus delicti;

to study the theoretical and practical issues of qualifying the act according to the objective side of the corpus delicti and their types, and to develop the basic rules for qualifying the act according to them;

to develop the proposals aimed at improving the national legislation by researching the characteristics of the objective side of the corpus delicti and the characteristics of their types in the Criminal Codes of some foreign countries;

to develop proposals and recommendations for improving criminal legislation and law enforcement practice.

The object of the research is the system of criminal-legal relations related to the understanding and qualification of the essence of the objective side of the necessary and optional features of the corpus delicti.

The subject of the research is the rules of the criminal law of national and some foreign countries, which are considered as a necessary and aggravating (qualification) condition for the qualification of the crime and the objective side of the corpus delicti, law enforcement practice, the legislation and practice of some foreign countries and conceptual approaches in the science of criminal law, scientific-theoretical views and legal categories.

Research methods. Methods such as historical, systematic-structural, comparative-legal, logical, sociological, comprehensive research of scientific sources, induction and deduction, statistical data analysis were applied in the research.

Scientific novelty of the research is as follows:

It is justified to introduce Article 128¹ to Criminal Code, which establishes liability for sexual intercourse with a person between the ages of sixteen and eighteen years by giving material values or making a property interest;

It is justified that the Criminal Code should be supplemented with Article 202¹, which establishes responsibility for cruelty to animals;

It is justified that the Criminal Code should be supplemented with Article 232¹, which establishes responsibility for interfering in the process of compulsory execution of judicial acts and acts of other bodies;

It is justified that the Criminal Code should be supplemented with 115¹, which stipulates responsibility for forcing a person to agree to take his organs and (or) tissues for transplantation;

It is justified that the Criminal Code should be supplemented with Article 133¹, which establishes liability for the sale of human organs and (or) tissues;

It is justified to include Article 133² to Criminal Code, which establishes liability for the export of human organs and (or) tissues to be transplanted outside the Republic of Uzbekistan.

Practical results of the research include as follows:

The proposals have been developed to improve the current criminal legislation of

the Republic of Uzbekistan;

The author's definition of the objective side of the corpus delicti and the types of its signs;

Section VIII of the Criminal Code "Legal Meaning of Terms" is based on the need to present the concepts of movement, inactivity and mixed inactivity in a new version;

Article 16¹ of the Criminal Code, that is "The corpus delicti of represents of the necessary and sufficient set of objective and subjective signs provided for in the the article of the Special Part of the Criminal Code, which qualifies a socially dangerous act (action or inaction) as a specific crime. The corpus delicti is the legal basis for qualifying the crime with a specific article of the current Criminal Code" the necessity to introduce a norm in the form has been justified;

It is justified that Article 56 of the General Part of the Criminal Code should be filled with additions "p) using firearms, ammunition, explosive substances, explosive devices, explosive or similar devices", "r) using official uniform or document by authority representative";

Part 2 of Article 110 of the Criminal Code should be supplemented with the following context "g) if committed by an employee responsible for the upbringing, education and health of a young child in educational, medical, social services or other institutions";

Articles 118, 119 of the Criminal Code based on the experience of some foreign countries and the study of the practice of applying the law "if it was committed with serious injury to the body", "if knowing that he has a venereal or other infectious disease and causes this disease to be transmitted to the victim", "if it was committed with extreme cruelty" and "if carelessness caused the death of the victim", has been justified that it should be filled with additions and supplement with paragraph;

Part 3 of Article 131 of the Criminal Code, such as "b) using the service position; "c) if it was committed in educational, medical, social service or other institutions or in other places where entertainment facilities are located;

Part 3 of Article 155 of the Criminal Code, such as, "v) if it was committed using nuclear, radioactive, chemical, biological, explosive, highly toxic substances or materials and firearms of mass destruction or explosive devices", has been justified that it should be filled in the following additions;

The need to include Article 227¹ of the Criminal Code, such as, the rule in the form of "illegally preparing, forging, transferring or using state license plates or identification numbers of motor vehicles and their trailers (semi-trailers)";

Parts 2 and 3 of Article 229 of the Criminal Code, such as, "those actions: a) with force or threatening to use force; b) if it was distributed using telecommunication networks, as well as the Internet global information network" and "If the actions provided for in the first or second Part of this Article cause serious bodily injury or other serious consequences", has been justified that the proposal to fill in the following paragraphs;

Article 266¹ of the Criminal Code, such as, "driving vehicles by a driver or a person who does not have the right to drive vehicles under the influence of alcoholic beverages or narcotic drugs, their analogues, psychotropic substances or other substances that affect the mind of a person the need to introduce a rule in the form of if

it is committed after the administrative punishment for such an act” has been justified;

Part 3 of Article 266 of the Criminal Code, that is, “that act: g) if a person causes death as a result of being intoxicated by alcohol or narcotic drugs, psychotropic substances or their analogues or other substances that affect the person’s intelligence” has been is justified that the proposal to fill in the content;

The recommendations on improving criminal legislation, correct application of criminal law rules on the objective side of corpus delicti and correct classification of crimes have been developed.

Reliability of research results. Modern methods studied and recommended by advanced foreign scientists were also applied in the research. Theoretical and scientific conclusions based on international scientific bases (<https://www.scholar.google.com>, <https://www.jstor.org>, <https://www.sciencedirect.com>, <https://www.proquest.com>, <https://heinonline.org>) and reliable information from other official sources. According to the letter No. 7-01/397-15-01 sent by the Tashkent State University of Law on February 3, 2023 to the Supreme Court of the Republic of Uzbekistan, the online survey (<https://docs.google.com>) was conducted among more than 500 law enforcement officers (interrogators, investigators, prosecutors, judges) and lawyers (advocate, researcher and scientists) of the Ministry of Internal Affairs and the General Prosecutor’s Office of the Republic of Uzbekistan the results of a questionnaire survey among and more than 500 court verdicts were researched; statistical data is analyzed, summarized and formalized accordingly.

The scientific and practical significance of the results of the research. The scientific significance of the research results is based on the scientific-theoretical conclusions, suggestions and recommendations in the future scientific activity, in the rule-making, in the law enforcement practice, in the review of the relevant rules of criminal legislation, improvement of national legislation and criminal law, qualification of crimes, in the further enrichment of the sciences of administrative liability from a scientific and theoretical point of view. Research results can be used in conducting new scientific research.

The practical significance of the results of the research is in the activity of rule-making, in particular, in the process of preparing normative legal acts and in the process of make amendments and additions to them, in improving the law enforcement practice of the rules of criminal legislation and in teaching the science of criminal law in higher legal educational institutions.

Implementation of the research results. Based on the results of the research of the theoretical and practical aspects of the objective side of the corpus delicti:

the proposal to supplement with Article 128¹ of the Criminal Code which stipulates liability for sexual intercourse with a person between the ages of sixteen and eighteen years by giving material values or giving them a property interest has been submitted in the development of Part 2 of Article 1 of the Law “Amendments and additions to the Criminal, Criminal Procedure Codes of the Republic of Uzbekistan and the Code of Administrative Liability of the Republic of Uzbekistan”, adopted on February 12, 2021, No. LRU–673, (Reference of the Committee on Anti-Corruption and Judicial Affairs of Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan, on September 27, 2022, No. 06/1-05/1445, reference of Committee on

Judicial Affairs and Anti-Corruption of the Senate of the Oliy Majlis of the Republic of Uzbekistan, on August 25, 2022, No. 06/13/45). The adoption of this proposal served to provide a correct legal assessment and fair punishment in judicial practice for sexual intercourse with a person between the ages of sixteen and eighteen years by giving material values or making a property interest;

the proposal to supplement the Criminal Code with Article 202¹, which establishes liability for cruelty to animals has been submitted in the development of Part 2 of Article 1 of the Law of the Republic of Uzbekistan “On Amendments and Additions to Certain Legislative Acts of the Republic of Uzbekistan” on August 25, 2021, No. LRU–711 (Reference of the Committee on Anti-Corruption and Judicial Affairs of Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan on September 27, 2022, No. 06/1-05/1445, reference of Committee on Judicial Affairs and Anti-Corruption of the Senate of the Oliy Majlis of the Republic of Uzbekistan, on August 25, 2022, No. 06/13/45). The adoption of this proposal served to prevent cruelty to animals and to establish liability for the commission of a guilty act;

the proposal to introduce Article 232¹ to the Criminal Code, which establishes liability for interfering with the process of compulsory execution of court acts and documents of other bodies has been submitted in the development of Part 2 of Article 1 of the Law “On Amendments and Additions to some Legal Acts of the Republic of Uzbekistan in Connection with the Further Improvement of the System of Execution of Judicial Acts and Documents of other Bodies” on April 11, 2022, No. LRU–762 (Reference of the Committee on Anti-Corruption and Judicial Affairs of Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan, on September 27, 2022, No. 06/1-05/1445, reference of Committee on Judicial Affairs and Anti-Corruption of the Senate of the Oliy Majlis of the Republic of Uzbekistan, on August 25, 2022, No. 06/13/45). This proposal served to determine liability for committing the recorded crime and to correctly qualify the act;

the proposal to supplement Article 115¹ of the Criminal Code, which establishes liability for forcing a person to agree to take his organs and (or) tissues for transplantation has been submitted in the development of part 3 of Article 1 of the Law in the connection with the adoption of the Law of the Republic of Uzbekistan “On Transplantation of Human Organs and Tissues” to some legislative acts of the Republic of Uzbekistan of the Law on Amendments and Additions” on June 23, 2022 No. LRU–780 (Reference of the Committee on Anti-Corruption and Judicial Affairs of Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan on September 27, 2022, No. 06/1-05/1445, reference of Committee on Judicial Affairs and Anti-Corruption of the Senate of the Oliy Majlis of the Republic of Uzbekistan on August 25, 2022, No. 06/13/45). This proposal served to correctly qualify the crime committed by the perpetrator and assign a fair punishment to that act;

the proposal that to supplement the Criminal Code with Article 133¹, which establishes liability for the sale of human organs and (or) tissues has been submitted in the development of Part 5 of Article 1 of Law “Amendments and Additions to some Legal Acts of the Republic of Uzbekistan “On Transplantation of Human Organs and Tissues”, on June 23, 2022, No. LRU–780 (Reference of the Committee on Anti-Corruption and Judicial Affairs of Legislative Chamber of the Oliy Majlis of the

Republic of Uzbekistan, on September 27, 2022, No. 06/1-05/1445, reference of Committee on Judicial Affairs and Anti-Corruption of the Senate of the Oliy Majlis of the Republic of Uzbekistan, on August 25, 2022, No. 06/13/45). The adoption of this proposal served to prevent the trade of human organs and (or) tissues, to establish liability for the commission of a guilty act and to impose a fair punishment;

the proposal to introduce Article 133² to the Criminal Code, which establishes liability for the export of human organs and (or) tissues to be transplanted outside the Republic of Uzbekistan has been submitted in the development of Part 5 of Article 1 of Law “On Amendments and Additions to some Legal Acts of the Republic of Uzbekistan “On Transplantation of Human Organs and Tissues” on June 23, 2022, No. LRU–780 (Reference of the Committee on Anti-Corruption and Judicial Affairs of Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan on September 27, 2022, No. 06/1-05/1445, reference of Committee on Judicial Affairs and Anti-Corruption of the Senate of the Oliy Majlis of the Republic of Uzbekistan on August 25, 2022, No. 06/13/45). This proposal that based on the principles served to assign a fair punishment is to establish liability for the export of human organs and (or) tissues to be transplanted outside the Republic of Uzbekistan, the correct qualification of the crime committed by the perpetrator and justice and humanity to act.

Approbation of the results of the research. The results of this research were discussed at 9 scientific conferences, including 5 international and 4 national scientific-practical conferences.

Publication of the research results. According to the results of this research, a total of 36 scientific works, including 1 monograph, 26 scientific articles (9 in foreign publications) were published on the theme of the dissertation.

The structure and volume of the dissertation. The content of the dissertation consists of an introduction, four chapters, a conclusion, a list of references and appendices. The volume of the dissertation is 260 pages.

THE MAIN CONTENT OF THE DISSERTATION

In the **introduction** of the dissertation includes the information about relevance and necessity of the research theme, its compatibility with the priority directions of the development of science and technology of the republic, a review of foreign scientific research, the level of research of the problem, the connection of the topic with the research work of the higher educational institution where the dissertation is being carried out information about its nature, its goals and objectives, object and subject matter, methods, scientific novelty and practical result, reliability of research results, scientific and practical significance, publication of results, volume and structure of the dissertation.

The first chapter of the dissertation entitled “**Theoretical foundations of the objective side of the corpus delicti in the theory of criminal law**” is devoted to the formation and development of the doctrine of the signs of the objective side of the corpus delicti, a general description of the signs of the objective side of the corpus delicti, the objective side of the corpus delicti and the solution of the problems identified on the basis of the comparative legal analysis of the “actus reus” concept.

Based on the analysis of the conducted researches¹ by M.H.Rustambaev, M.Usmonaliev, P.Bakunov, K.Abdurasulova, A.S.Yakubov, O.Kh.Rasulov, R.Kabulov, A.A.Otajonov, I.A.Sottiev, T.R.Kuchkarov, H.R.Ochilov, A.N.Trainin, G.V.Timeyko, I.Renneberg, V.N.Kudryavsev, A.V.Naumov, N.A.Lopashenko, A.I.Chuchaev, Inogamovoy-Khegay, A.I.Rarog, A.I.Boyko, V.B.Malinin, A.F.Parfenov and others the opinion that the existence of social danger act is a necessary sign of all the signs of the objective side, formal or material crimes of the corpus delicti has been justified. Criminal consequence, causal connection, instruments and means of crime are optional signs of the objective side of the crime. As an exception, only in crimes with a material content, the criminal act, social consequence and causal connection are necessary signs of the objective side of the crime. Subsequently, the place, time, situation and method of committing the crime are independent signs of the objective side and circumstances of the crime. Furthermore, they are the circumstances of the crime. Thus, any crime could be committed at a certain time, place, situation and method.

As claimed by author of this dissertation the place, time, situation and method of committing crime are not optional, but are an independent sign of the objective side of any crime and of its elements. This notion of appearing the criminal signs as conditions for committing crime is supported by a number of scientists.

70% of the respondents who took part in the survey (researchers and scientists), lawyers, judges and law enforcement officers stated that the time, place, and method of committing crime are conditions and has a direct influence on the qualification of the acts for considering them as independent signs (conditions) of the objective side of the crime structure.

The author justified the need to introduce a new Article 16¹ called “Corpus delicti” into the General Part of the Criminal Code as a result of researching the concepts (“scientific abstraction”, “real structure of the crime”, “normative or legislative model”) and prohibitions on the corpus delicti in the theory of criminal law (N.S.Tagantsev, A.N.Trainin, V.N.Kudryavsev, N.F.Kuznetsova, A.I.Boyko, A.I.Rarog, A.N.Ignatov, I.Y.Gontar, E.O.Filippova, Y.E.Pudovochkin, D.A. Dorogin, George P. Fletcher, O.Kh.Rasulov, M.Kh.Rustambaev, A.S.Yakubov, M.Usmonaliev) as well as the criminal legislation of foreign countries (Germany, Moldova, etc.).

In the survey conducted during the research, 65.4% of the judges said that there is a need to introduce a rule on “Corpus delicti” into the General Part of the Criminal Code and 34.6% of them mentioned that there is no need to introduce such a rule; 57% of employees working in the system of prosecutor’s offices of the Republic of Uzbekistan believe that such a rule should be introduced, while 43% them stated that it is not necessary; 78% of inquirers and investigators said that it is necessary to introduce a rule to the legislation, while 22% said that it is not necessary. As a result of researching the opinions of practitioners on this question and the criminal legislation of foreign countries (Germany, Moldova, etc.), the author justified the need to supplement the General Part of the Criminal Code with a new Article 16¹ called “Corpus delicti”:

“The corpus delicti represents a set of objective and subjective signs provided for in the article of the Special Part of the Criminal Code, which qualifies a socially

¹ The works of these scientists are listed in the reference.

dangerous act (act or failure to act) as a specific crime.

The corpus delicti is the legal basis for qualifying the crime with a specific article of the current Code.”

The dissertator puts forward the opinion that social danger, which is a material sign of crime, its nature and level, is defined by the objective signs of the crime, and based on these signs, the dispositions of the rules of the Special Part of the Criminal Code are formed, furthermore author of this dissertation justifies this opinion with the following: 1) dispositions of the rules of the Special Part of the Criminal Code are formed based on the signs of the objective side and they are the objective basis of criminal prosecution; 2) if the feature of social danger of the crime is usually determined by the object of aggression and the criminal consequence, which is the sign of the objective side, the level of its social danger is the circumstances of the crime: mainly the method of the crime, the amount of damage or the severity of the consequences which is determined by; 3) the non-existence of a socially dangerous act (act or failure to act), which is a necessary sign of the objective side in a specific case, means that the corpus delicti is also non-existent; 4) identification of the signs of the objective side of the corpus delicti is the first step in the qualification of the crime; 5) other elements and signs of the corpus delicti are determined based on the objective side of the crime; 6) the presence of one or other signs of the objective side of the criminal offense affects the character and level of social danger of the committed act, and based on them, crimes with a similar offense are distinguished from each other; 7) based on the signs of the objective side, the moment of completion of the criminal act is determined; 8) the structure of the objective side of the crime in the disposition of the law serves to solve many other criminal-legal issues, for instance, participation in the crime, initial criminal activity, voluntary return from the crime; 9) without identifying all the signs of the objective side of the crime, a fair punishment cannot be imposed.

In the second chapter of the dissertation, devoted to the “**Methodological foundations of the study of the criminal act and its consequences**”, criminal act as a form of socially dangerous act: the relationship of general and special signs, criminal failure to act as a form of socially dangerous behaviour: mixed failure to act and its problems, the nature, structure, occurrence and types of the criminal consequences were analysed and some issues of the classification of crimes were researched.

In this chapter, the author described the following characteristics of a criminal act (act or failure to act): 1) common signs of a criminal act: awareness; wilfulness; voluntariness; external activity; complex characteristic (consisting of a set of nature, external objective laws and forces used to achieve a certain goal); its special signs: social danger (material sign); illegality (legal sign); 2) common signs of criminal failure to act: awareness; wilfulness; voluntariness; external failure to act (passivity); complex nature (participation of nature, external objective laws and forces in the occurrence of a certain criminal consequence); its special signs: social danger (material sign); illegality (legal sign).

The researcher came to the conclusion that in order to hold a person responsible for criminal failure to act, he should have objective (obligations stipulated in normative legal acts) and subjective (real confidence in being able to fulfil obligations) criteria and classified the objective criteria of socially dangerous failure to act as follows: 1) that

they are provided for by law, i.e. defined in criminal legislation or normative legal acts; 2) duties and obligations of service, profession or position; 3) that a person is assigned to fulfil various obligations by a court decision; 4) the obligation of the person who put the victim in a certain dangerous situation to help.

As a result of studying the research conducted on the topic, the author divided socially dangerous failure to act into two types: – failure to act; – mixed failure to act. Crimes under Articles 221 and 279 of the Criminal Code can be cited as “pure” failure to act. In this case, the non-performance of the act defined by the law is considered to be a socially dangerous act, regardless of whether a socially dangerous consequence has occurred or not. It was concluded that “mixed” failure to act can be attributed to the acts of Articles 260 and 266 of the Criminal Code.

The dissertator examines the researches (M.H. Rustambaev, M. Usmonaliev, P. Bakunov, G.V. Timeyko, N.D. Durmanov, V.B. Malinin, N. Panov, A.I. Boyko, George P. Fletcher, U.S. Dzhekebaev and other scientists works¹) on criminal failure to act and the bases of responsibility for criminal failure to act are: factual, juridical (legal) and subjective; legal basis - a person's failure to fulfil the duties and obligations specified in regulatory legal documents, failure to perform acts aimed at fulfilment; factual basis - the fact that a person clearly did not fulfil the obligations defined and imposed by law in objective reality; subjective basis – it is based on the fact that a person has a real possibility to fulfil an obligation. The absence of one of them does not give rise to criminal liability for failure to act. If the obligation to perform an action in case of criminal omission is limited to the obligation to perform another action, it was concluded that this conflict should be regulated by the provisions of the last necessity (Article 38 of the Criminal Code).

The author notes that there is a problem of their systematization in criminal law due to the basis of classification of socially dangerous consequence, after critically analysing the opinions of some authors, author proposes to divide the criminal-legal consequence into material and non-material types, and divide it into groups according to the following criteria: 1) *damage caused according to its nature*: material (in the form of physical and property damage) and immaterial (immaterial damage in the form of real damage (Article 144 of the Criminal Code and others) and the consequence in the form of a real risk of harm (Article 113 of the Criminal Code) and others); 2) *according to the danger of the harm caused*: the consequence expressed as a necessary sign of the corpus delicti (Article 266 (2,3) of the Criminal Code, etc.); 3) *as defined in the criminal legislation*: a clearly defined consequence (articles 97-103¹, article 104(3)(d), article 106 of the Criminal Code, etc.) and an assessed consequence (“property damage”, “a little amount”, “a large amount”, “extensive amount”, “a little amount of damage”, “a large amount of damage”, “extensive amount of damage”, “serious damage”, “serious harm”, “serious consequences”, “other serious consequences”); 4) *according to its significance for the qualification of the act as a crime*: mandatory (Article 115 of the Criminal Code, etc.) and additional (Article 164(3)(g) of the Criminal Code and others).

The third chapter of the dissertation entitled “**Methodological foundations of the**

¹ The works of these scientists are listed in the reference.

study of causal connection in criminal law” deals with causal connection in criminal law and interaction with determinism, theories of causal connection and their problems, problems of causal connection when failure to act is considered.

The dissertation is based on criminal legislation and judicial practice, that is derived from the objectivity of the causal connection between a criminal act and a socially dangerous consequence, the idea that the approach that there is always an objective sequence between the criminal act and the consequence helps to reveal the nature of the causal connection, which is a necessary sign of material crimes, is put forward. Experts and scientists in the field of criminal law always recognize the objective nature of causal connection. Definitions of causal connection in criminal law are based on two principles, which are methodologically important by their nature. The first principle is the principle of artificial separation (isolation “but-for test”) of events, and the second is the rule of mental exclusion in determining causality.

Due to the complexity of the notion of causal connection, the author notes that some scholars in the theory of criminal law have confused on theories and concepts of causal connection in many cases, and distinguishes the following rules of theories and notions of it:

1) *equivalence theory* (“*Conditio sine qua non*” – “*situation without necessary condition, no consequence...*”); 2) *adequacy theory*; 3) *principal cause theory*); 4) *the theory of causes and conditions*; 5) *the theory of indirect causality*; 6) *the theory of necessary and contingent causation*; 7) *theory of “incoming forces”*; 8) *the theory of probabilistic causality*; 9) *theory of possibility and reality*; 10) *the theory of “internal causality”*; 11) *theory of “culpability”*; 12) *theory of necessary conditions*.

The dissertator emphasizes that not all of the above theories are supported and some of them are rejected in the theory of criminal law and scientific research.

The researcher puts forward proposals and explanations regarding the application of the following rules and principles to solve the problem of causality in the theory of criminal law and the law enforcement practice:

1) the rule of criminal act-time-socially dangerous consequences; 2) the principle of artificial isolation (“but-for test”) of events; 3) the principle of “consequence-deed”; 4) the rule of “logical exclusion and contradiction”.

In this chapter, the author has developed the following signs and criteria of criminal-legal causal connection based on the analysis of theories and concepts of causal connection in criminal law:

1) signs of criminal-legal causal connection: a) objectivity; b) part of the general causal connection between events; c) “cause and effect” (the cause always precedes the effect); d) necessary causal connection;

2) causal connection between a criminal act and a socially dangerous consequence: a) consistency in time; b) the act has a real possibility of causing a consequence; c) the occurrence of the consequence due to the act is the main and immediate cause; d) that the consequence occurred not because of any act, but precisely because of the committed act; e) it is based on the fact that social dangerous consequences do not occur without a criminal act.

In the third chapter of the dissertation, **“Theoretical and practical issues of the qualification of the act according to the objective side of the crime and the**

improvement of the rules of the Criminal Code”, the construction of the objective side of the crime in the legislation, the signs of the objective side of the crime and the main rules of the qualification of the crime according to their types, the prospects of improvement of the rules of the General and Special Part of the Criminal Code related to the objective side of the criminal offense were studied.

The dissertator analysed the legal structure of the objective side of the crime and described the following signs of the objective side of the crime, which are of criminal-legal importance in the qualification of the act:

1) *the description of the expression of a socially dangerous act in the criminal law:* a) the nature and specific list of the criminal act (act or failure to act) is expressed in full form in the disposition of the articles of the Special Part of the Criminal Code; b) the description of the criminal act (act or failure to act) is not provided for in the provisions of the Special Part of the Criminal Code, and the expression of the criminal-legal consequences; c) expression of the description of the criminal act (act or inaction) in the referring disposition d) representation of the criminal act (act or failure to act) by the legislator in the relevant disposition; e) possible (alternative) expression of the criminal act (act or failure to act) in the provisions of the Special Part of the Criminal Code; f) expression of the criminal act in the form of two main and necessary actions in the disposition of the articles of the Special Part of the Criminal Code;

2) *description of socially dangerous failure to act in criminal legislation:* a) failure to act provided for in criminal legislation; b) failure to fulfil service, professional or professional duties and obligations; c) non-fulfilment of obligations stipulated by the court's decision; d) non-fulfilment of obligations caused by the actions of the guilty party; e) lack of direct expression of failure to act in the rule of the Special Part of the Criminal Code; f) in the rule of the Special Part of the Criminal Code, failure to act is expressed without certain consequences or it is expressed as the cause of certain consequences; g) Expression of certain types of failure to act in the rules of the Special Part of the Criminal Code;

3) *description of the expression of a socially dangerous consequence in criminal legislation:* a) a criminal-legal consequence whose nature and level (severity) are clearly indicated; b) criminal-legal consequences expressed using evaluative concepts (“property damage”, “a little amount”, “a large amount”, “extensive amount”, “a little amount of damage”, “a large amount of damage”, “extensive amount of damage”, “serious damage”, “serious harm”, “serious consequences”, “other serious consequences”); c) the nature and degree (severity) of the criminal-legal consequence indicated as possible (alternative); d) the criminal-legal consequence listed in the criminal law according to its nature and level (severity); e) a criminal-legal consequence with a real risk of its occurrence in the criminal law according to its nature and level (severity); f) the main and additional criminal-legal consequence provided for by the criminal law according to the nature and level (severity);

4) *the “traditional three” of the optional features of the objective side of the crime structure when qualifying the act:*

1) that optional signs of the objective side of the crime are provided by the legislator as a necessary sign of the crime in the disposition of a specific article of the Special Part of the Criminal Code;

2) the specific article of the Special Part of the Criminal Code of the optional features of the objective side of the crime stipulates the corpus delicti (objective side) as an aggravating (qualifying) necessary feature of responsibility;

3) it is based on the fact that the optional features of the objective side of the crime are provided in the criminal law as mitigating or aggravating circumstances (Articles 55-56 of the Criminal Code).

In this chapter, it has been proved that the first two of the criminal-legal significance of the optional features of the objective side of the crime, which are called the unique “triad”, have a direct impact on the qualification of the act.

According to the research works and scientific approaches of scientists studied in the previous chapters of the dissertation, it is necessary to define mixed inactivity in Section VIII of the Criminal Code of “Legal Meaning of Terms”, as well as, in the definition of action, there are signs of illegality, volition and complex nature and in the definition of inaction, it is not to perform certain actions that are required to be performed in the obligations without having a real opportunity, that is, criticizing the lack of a subjective criterion for prosecution, citing the fact that in the criminal law of the USA (Chapter 2 of the New Jersey Code of Criminal Justice), Germany, Canada and other foreign countries have been expressed.

In the survey of judges, law enforcement officers, researchers and scientists, Section VIII of Criminal Code of “Legal Meaning of Terms” the definition of mixed inactivity and the definition of action, signs of illegality, volition and complex nature, and in the definition of inaction, failure to perform certain actions stipulated in obligations without having a real opportunity, that is, whether there is a need to express a subjective criterion of accountability? 74,8% of the respondents to the question said that such signs should be included; 17.9% expressed the opinion that it is not necessary to include such signs.

“The use of firearms, ammunition, explosives, detonating devices, explosions or similar devices” or “the use of the official uniform or document of a representative of the authorities” in the commission of a crime, as an aggravating factor, the punishment in Article 56 of the Criminal Code criticized by the author because the fact that it was not included in the list of extenuating circumstances, and claimed that US, Canada, Germany, France, Japanese criminal legislation, Article 58 (11) of the Penitentiary Code of Estonia, Article 63 (1) (k, n) of the Criminal Code of the Russian Federation, Article 54 (1)(10, 15) of the Criminal Code of Kazakhstan, Article 62 (1)(l) of the Criminal Code of Tajikistan, Article 61 of the Criminal Code of Azerbaijan 61.1.12, the crime is committed by instruments, military firearms, explosives, explosive or similar devices, specially prepared technical means, toxic or radioactive substances, drugs or other chemical-pharmacological preparations, or the official uniform of a representative of the authorities, or that it was committed using the document was recognized as an aggravating circumstance.

In a survey conducted among judges, law enforcement officers, investigators and scientists, the instrument of the above crime was related to “Aggravating Circumstances” in Article 56 of the General Part of the Criminal Code or the responsibility of the crime provided for in some articles of the Special Part of the Criminal Code. For the question of, “Is there a need to include it as a marker?” 76.6%

of the respondents to the said that such a rule should be introduced; 16% expressed the opinion that it is not necessary to introduce such a rule.

In the dissertation, based on the analysis of legal rules, law enforcement practice, sociological research, statistical data analysis, and the experience of foreign countries, the author wrote about the signs of the objective side of the crime structure, in order to enhance Articles 110 (2), 118-119 (2 and 3), 131 (3), 155 (3), 164 (3) (v), 166 (3) (b), 169 (3) (v), 266 of the Criminal Code and the following proposals have been developed in connection with the improvement of the 3rd paragraph:

1. Articles 110 (2) of the Criminal Code. “Torture: *g) if committed by an employee responsible for the upbringing, education and health of a young child in educational, medical, social services or other institutions*”;

2. Article 118-119 (2) of the Criminal Code. “*e) if knowing that he has a venereal or other infectious disease and causes this disease to be transmitted to the victim; j) if it was committed with extreme cruelty; z) if it was committed with serious injury to the body*”;

3. Article 118-119 (4) of the Criminal Code. “*a) it is clear to the offender that he is under fourteen years of age; b) if carelessness caused the death of the victim*”;

4. Article 131 (3) of the Criminal Code. “*Participating or keeping a brothel: a) colluded in advance by a group of individuals; b) using the service position; c) if it was committed in educational, medical, social service or other institutions or in other places where entertainment facilities are located.*”

5. Article 155 (3) of the Criminal Code. “*Terrorism: c) if it was committed using nuclear, radioactive, chemical, biological, explosive, highly toxic substances or materials and firearms of mass destruction or explosive devices*”;

6. Article 229 (2 and 3) of the Criminal Code. “*Those actions: a) with force or threatening to use force; b) if it was distributed using telecommunication networks, as well as the Internet global information network. If the actions provided for in the first or second Part of this Article cause serious bodily injury or other serious consequences*”;

7. Article 226 (3) of the Criminal Code. “*g) if a person causes death as a result of being intoxicated by alcohol or narcotic drugs, psychotropic substances or their analogues or other substances that affect the person’s intelligence*”;

Since, there is no liability under current criminal law for illegally preparing, forging, selling or using license plates of motor vehicles and their trailers (semi-trailers), although administrative responsibility is provided for this act in Article 125, Part 6 of the Code of Administrative Responsibility, some citizens use license plates or identification numbers in order to hide the traces of a crime or to hide the crime, as well as the need to establish criminal liability for the illegal preparation, forgery or use of state license plates or identification numbers in order to avoid being recorded on photo and video recording equipment, chapter proposed to introduce a new Article 227 to the Criminal Code on the content of “*Preparation, forgery, sale or use of state license plates or identification numbers of motor vehicles and their trailers (semi-trailers)*”, since this rule is included in Article 326 of the Criminal Code of the Russian Federation, Article 276 of the Criminal Code of Moldova, Article 325 of the Criminal Code of Armenia, Article 381 of the Criminal Code of Belarus, Article 386 of the Criminal Code of Kazakhstan and a number of other CIS countries stated that it is

reflected in the criminal legislation.

In the survey conducted during the research, is there a need to include a new Article 227¹ in the Criminal Code?, 72,2% of judges, prosecutors, investigators, professors and teachers said that it is necessary to include such an article, 23,4% said that it is not necessary to introduce such an article.

Although in the dissertation mentioned that the driver is subject to administrative responsibility for driving a means of transport while intoxicated in Article 131 of the Code of Administrative Responsibility, repeatedly driving a means of transport while intoxicated, that is, under the influence of alcoholic drinks or narcotic drugs, their analogues, psychotropic substances or other substances that affect a person's intelligence causing serious traffic accidents, still in 2018 – 4561 cases, in 2019 – 26814 cases, in 2020 – 23063 cases, in 2021 – 25680 cases, in 2022 – 23960 cases, in 9 months of 2023 – 9912 cases¹ was recorder under Article 131 of the Code of Administrative Responsibility. As a result of traffic accidents with serious consequences related to the repeated intoxicated driving of the above citizens, many people were injured or killed, in such cases show that the punishments provided for in Article 131 of the Criminal Code of the Republic of Uzbekistan are not sufficient to prevent these violations, however for the repeated commission of this crime, the United States, Canada, Chapter VIII, in Article 320.14 (1), Germany Criminal Code under the Title 4, Section 28, Chapter 315s, Articles 2-4 of the Criminal Code of Japan, Article 264.1 of the Criminal Code of Russia, Article 317-1 of the Criminal Code of Belarus, Article 346 of the Criminal Code of Kazakhstan provided the provision of criminal sanctions.

Based on the above, the need to introduce a new article 266 into the Criminal Code that mentions “*If it was committed after an administrative punishment was applied for such an act, driving a means of transport under the influence of alcohol, narcotic drugs, their analogues, psychotropic substances or other substances that affect the intelligence of a person by a driver or a person who does not have the right to drive a means of transport*” has been proven.

Taking into account the fact that in practice most intentional homicides are committed in connection with rape, the researcher refers to the decision of the Plenum of the Supreme Court of the Republic of Uzbekistan proposed to change Paragraph 13 of the decision “On judicial practice in cases of intentional homicide” as following: “Courts must take into account that in the case of premeditated murder in connection with indecent or sexual gratification by unnatural means, only the perpetrator of indecent or sexual gratification by unnatural means it is qualified by clause “z” of the second Part of Article 97 of the Criminal Code only when there is a fault in the form of correct intent in relation to satisfaction and the consequence of death. In this case, in order to qualify the act as imitation, it is necessary to establish the existence of a causal connection between the death caused by rape or satisfying the sexual need in an unnatural way using force”.

The analysis of the studied criminal case materials showed that today, in the crime

¹ <https://stat.sud.uz>

of intentional homicide in connection with the violation of honor or the unnatural satisfaction of sexual needs by force, the presence of guilt in the form of correct intent in the form of a socially dangerous act and the result in the form of death is 52%¹.

The author notes that in practice, most intentional homicides are committed in connection with honor killings, Paragraph 3 of the decision of the Plenum of the Supreme Court of the Republic of Uzbekistan “On judicial practice in cases related to defamation and unnatural satisfaction of sexual needs”, “Mild, moderate or severe injury to the victim during touching of honor or unnatural satisfaction of sexual needs is covered by the provisions of Article 118 or Article 119 of the Criminal Code, respectively, and it does not require additional qualification with Articles 104, 105, 109 of the Criminal Code. If the victim is seriously injured during indecent or unnatural satisfaction of sexual desire, the perpetrator’s actions are covered with Article 118 or paragraph “z” of Part 2 of Article 119 of the Criminal Code and do not require additional qualification with Article 104 of the Criminal Code” should be offered to give an explanation.

The analysis of the studied criminal case materials showed that today, during the act of touching the honor or the unnatural satisfaction of the sexual need, the victim is lightly injured 77%, moderately seriously injured 79% or severely injured 87%².

Providing the proposed explanations to the relevant paragraphs of the above decisions of the Plenum of the Supreme Court of the Republic of Uzbekistan leads to the correct application of the principles of legality, justice, humanity and the inevitability of responsibility of the Criminal Code.

CONCLUSION

The following conclusions of theoretical and scientific-practical importance were developed as a result of the research conducted on the theme “Theoretical and practical aspects of the objective side of the corpus delicti”:

I. Scientific and theoretical conclusions:

1. As a basis for the emergence and development of the concept of corpus delicti at all stages of historical development (in the ancient Roman law, the scheme that includes seven main paragraph in determining the corpus delicti (the structure of the crime) (“Quis, quid, ubi, quando, cur, quomodo, quibus auxiliis”), “Handlung oder Tatsache” (act or fact) in German classical criminal law, concepts of crime (Verbrechen) and criminal composition (Tatbestand), in the formation of the concepts of “scientific abstraction”, “real corpus delicti”, “normative or legislative model” on the corpus delicti) the objective side of the corpus delicti has a central place. The formation (genesis) and development of the doctrine of the corpus delicti, the signs of the objective side of the crime are the main ones in its evolution, the core of the corpus delicti is made up of *the signs of the objective side of the crime*. Other elements and signs of the corpus delicti are determined depending on the signs of the objective side of the crime.

¹ <https://public.sud.uz/report/CRIMINAL>

² <https://public.sud.uz/report/CRIMINAL>

2. It is justified that the result of the research of the theory of criminal law and criminal legislation, the following theoretical aspects of the objective side of the corpus delicti:

1) the only necessary sign of the objective side of corpus delicti is *a socially dangerous act (act or inaction)*. Criminal consequence, legal causation, means and instrument of crime are *facultative signs of the objective side of the crime*. As an exception, only in crimes with a material content, the criminal act, social consequence and legal causations are the necessary signs of the objective side of the corpus delicti;

2) The place, time and method of committing crime are independent signs of the objective side of corpus delicti and its element. Every crime is committed at a certain time, place, situation and method. The criminal-legal importance of the objective side of the corpus delicti as an independent sign depicts as follows:

the place and time of the crime is one of the general conditions for criminal prosecution; the place of crime is not provided for in the specific article of the Special Part of the Criminal Code, it directly affects the correct classification of some crimes; *the place of crime* determines the level, stages, and completion of the crime; the place of crime determines the method provided for in the specific article of the Criminal Code and directly affects the correct classification of this crime; *the place of crime* is important in determining guilt and its forms, which is a necessary sign of the subjective side of the corpus delicti in the qualification of certain acts; the time of committing crime determines the time of completion of formal, discrete, material, continuous and long-lasting crimes; *the method of committing crime* is a form of external expression of socially dangerous action or inaction. As the method cannot be separated from the content, it is connected with the criminal action (inaction) in the whole system. Any criminal act (inaction) is committed by a certain method. The method describes the criminal action (inaction).

3. The objective side of the corpus delicti and its signs are given the author's definition as follows:

a) the objective side of corpus delicti is the nature and level of social danger of criminal aggression, committed in a certain way in a specific place, time and circumstances, sometimes using weapons or other means, causing damage to an object protected by the criminal law, a crime consisting of a set of objective, social, legal significance, important, sufficient and necessary signs that represent and describe the external signs of a socially dangerous and illegal act (action or inaction) that causes harmful consequences in crimes with material content the composition is the external side (element);

b) the time of committing crime is a certain period of time during which a crime can be committed, measured by units of time such as seconds, minutes, hours, days, months. If the time of commission of the crime is directly provided in the disposition of the article of the Criminal Code, it is a necessary sign, if it is not provided, it is an independent sign of the objective side of the corpus delicti. Any crime is committed at a certain time;

c) the place of crime refers to the specific area (on land, water, air or specific space) where the crime is committed, defined by the border of the country. Thus, the criminal-legal content of the place fully corresponds to the generally accepted definition

of this word, that is, it is an entity (place) where something is located, happens (or was, committed), a place is considered, and the place of the crime is the entity where the crime was committed.

d) the method of committing crime is a behavioral conduct, work (operation), a set of methods, an action-oriented, interrelated method used in the commission of a crime, which represents the description of a criminal act (action or inaction) and is a style system.

4. As a result of the study of the research conducted on the topic of criminal inactivity: – pure inactivity; – classified into mixed inactivity. “Pure” inactivity can include acts of Articles 221 and 279 of the Criminal Code. In this case, the non-performance of the action prescribed by the law is considered to be a socially dangerous act, regardless of whether or not a socially dangerous consequence has committed. “Mixed” inactivity can include the acts of Articles 260 and 266 of the Criminal Code.

5. The criminal-legal significance of a socially dangerous act is manifested as follows: 1) it serves that a distinguishing feature between crime and other offenses; 2) it is defined that the main criterion for criminalization of the act in the legislation. The amount and nature of socially dangerous consequences is considered one of the conditions for declaring an act a crime, that is, it is considered one of the main criteria for determining the level of social danger of a crime; 3) it plays an important role in the qualification of the act (as a necessary sign of the *corpus delicti*) and in determining the amount of criminal liability (in cases of mitigating and aggravating punishment): 1) the fact that the socially dangerous consequence is directly provided or not provided for in the relevant rule of the criminal law depicts the uniqueness of the *corpus delicti*; 2) the fact that a socially dangerous consequence is directly provided for in the relevant rule of the criminal law means that it must be determined and requires proof in the activities of entities authorized to the law enforcement practice (in the preliminary investigation and in court); 3) the criminal consequences provided for in the criminal law do not occur when crimes of material content are committed, these crimes should be qualified taking into account the guilt that is a necessary sign of the subjective side: – in the case of crimes committed with the direct intent, when the consequences stipulated by the law do not occur, the act is qualified as an attempt to commit a crime; – crimes committed with indirect intent are qualified according to the actual consequences; – criminal liability does not arise if there are no socially dangerous consequences in crimes committed carelessly; – the origin of the criminal consequence sometimes means that the crime was committed in circumstances that aggravated the liability (aggravating (qualifying) sign of the *corpus delicti*); 4) the criminal consequence is the main criterion that determines the level of social dangerous of the crime and it affects the level of social dangerous of the act. In particular, the more severe the consequences, the higher the level of social dangerous of a specific crime. 5) the criminal consequence is not provided for in the relevant rule of the criminal legislation, if it is not considered a necessary sign of the *corpus delicti*, it may be taken into account as an aggravating or mitigating circumstance when imposing a punishment.

6. As a result of researching theories, concepts, causal connection, conditions, criteria and rules for determining the existence of causal connection, four different forms of causal connection between a person’s criminal behavior and a socially

dangerous, unlawful consequence (result) were distinguished and tried to express it in the following formulas:

a) *active behavior* – active consequence (result) (A-A). (for instance, intentional destruction or damage to property by arson. As a result of the perpetrator actively setting fire to a motor vehicle, it catches fire);

b) *active behavior* – passive consequence (result) (A-P). An active socially dangerous action can sometimes cause an active or passive consequence that is socially dangerous (for instance, falsification of documents (understatement or concealment of taxable objects) in evasion of taxes or fees can be given as an example.

c) *passive behavior* – active consequence (P-A), in which the passive behavior (inaction) of a person is one of the main causes of the crime, it is evaluated as a consequence (result) of changes in the environment (for instance, helping a sick person death of a person due to the inaction of a doctor who is obliged to do);

d) *passive behavior* – passive consequence (result) (P-P), due to the lack of a clear causal connection between the inaction and the result, this scientific approach has been the cause of debate in the theory of criminal law, but in this scientific approach, the cause is a condition - in a set of conditions, causal connection arises interdependently. If the object protected by the criminal law is related to the system(s), that person should be held responsibility (for instance, whoever persuaded a person who does not know how to swim to go into the water, or if the owner of the profession assigned the duty to save drowning people was on duty).

7. In the theory of criminal law and the practice of law enforcement, it should be based on the following rules and principles to be applied to solve the problem of causal connection and to determine the link between a socially dangerous act and its consequences:

1) *the rule of criminal act-time-socially dangerous consequences*. The act and the criminal consequence are in a specific sequence of time, and it should be determined that the act was committed before the criminal consequence;

2) *the principle of artificial isolation of events (“but-for test”)*, that is, the principle of artificial isolation of events should be applied. This principle consists of “three” specific rules, firstly, the behavior of a person should be distinguished, because if his behavior is criminal behavior, it is the necessary cause of the consequence of the criminal act. Secondly, the necessary conditions must be separated from causal connection, because the necessary condition is a category that helps the necessary cause. Thirdly, the consequence should be distinguished. In addition, the application of the rule of special logical isolation, that is, the behavior of the person and the resulting consequence must be isolated and separated logically. It is necessary to determine the existence of a causal connection between a socially dangerous act or inaction and the criminal consequences that have occurred. First of all, the criminal behavior and the resulting criminal consequences should be separated from the whole system of other events;

3) *the principle of “consequence-act”*. This principle is the application of the method of proceeding from the criminal consequence to the act. In this method, the starting point is defined as a criminal consequence, first of all, the crime that caused a harmful consequence in the preliminary investigation is related to the determination of the consequence. For instance, the finding a dead body with a stab wound to heart.

Secondly, the causal connection consists of a chain of certain causes, and in order to know and determine it, it is necessary to go from one part of the chain to another. Therefore, the “consequence-act” principle, that is, the principle of direction from the resulting consequence to the action, should be applied;

4) *the rule of “logical exclusion and negation”* is the rule of “logical (imaginary) exclusion and negation”, which is the golden rule of causal connection, according to which a causal connection exists only when a certain criminal act causes a socially dangerous consequence, that is, if a socially dangerous act is not committed, a criminal the origin of the consequence is also impossible.

8. “Traditional trinity” of the optional features of the objective side of the corpus delicti when qualifying the crime: 1) the optional signs of the objective side of the crime are provided by the legislator as a necessary sign of the crime in the disposition of a specific article of the Special Part of the Criminal Code; 2) the specific article of the Special Part of the Criminal Code on the optional features of the objective side of the crime stipulates that the corpus delicti (objective side) is a necessary aggravating (qualifying) feature of liability; 3) the optional signs of the objective side of the crime are provided in the criminal law as mitigating or aggravating circumstances (Articles 55-56 of the Criminal Code) have been justified.

II. Suggestions improving the criminal legislation:

1. It is proposed to define the concepts of **action, inaction and mixed inaction** in Section VIII of the Criminal Code “Legal Meaning of Terms” as follows:

“Action – socially dangerous, unlawful, conscious, volitional (optional) or complex external active behavior of a person.

Inaction – socially dangerous, which is expressed in the fact that a person does not perform certain actions that are determined laws and by-law, court decisions, existing social norms in society, due to his actions or in service, professional or professional duties and obligations, without having a real opportunity, illegal, conscious, volitional (optional) or complex external behavior.

Mixed inaction – a set of actions and inactions that cause damage to objects protected by the Criminal Code as a result of a person’s pre-existing conscious, volitional active behavior that causes the harmful, socially dangerous consequences provided for in it and a cannot or will not prevent them by inaction.”

2. It is proposed to introduce a new Article 16¹ in the General Part of the Criminal Code:

Article 16¹. Corpus delicti

“The corpus delicti of represents of the necessary and sufficient set of objective and subjective signs provided for in the the article of the Special Part of the Criminal Code, which qualifies a socially dangerous act (action or inaction) as a specific crime.

The corpus delicti is the legal basis for qualifying the crime with a specific article of the current Criminal Code.”

3. It is justified to introduce supplement to Article 56 of the General Part of the Criminal Code as follows:

“p) using firearms, ammunition, explosive substances, explosive devices, explosive or similar devices;

r) using official uniform or document by authority representative;

4. It is proposed to introduce the following paragraphs in Part 2 of Article 110 of the Criminal Code:

“g) if committed by an employee responsible for the upbringing, education and health of a young child in educational, medical, social services or other institutions;

5. It is proposed to introduce the following paragraphs in Part 2 of Articles 118 and 119 of the Criminal Code:

“e) if knowing that he has a venereal or other infectious disease and causes this disease to be transmitted to the victim;

j) if it was committed with extreme cruelty;

z) if it was committed with serious injury to the body”.

6. It is proposed to include the following paragraphs in Article 118 and Part 4 of Article 119 of the Criminal Code: a) if it was obvious that under the age of fourteen;

b) if carelessness caused the death of the victim.”

7. It is proposed to introduce Part 3 of Article 131 the Criminal Code as follows:

Actions provided for in the first or second Part of this Article:

“a) colluded in advance by a group of individuals;

b) using the service position;

v) if it was committed in educational, medical, social service or other institutions or in other places where entertainment facilities are located.”

8. It is proposed to introduce the following paragraphs in Part 3 of Article 155 of the Criminal Code:

“Actions provided for in the first or second Part of this Article:

v) if it was committed using nuclear, radioactive, chemical, biological, explosive, highly toxic substances or materials and firearms of mass destruction or explosive devices.”

9. It is appropriate to submitted with paragraph “v” of Part 2 of Article 169 of the Criminal Code as “with illegal entering a dwelling, warehouse, other room or *vehicle*”. In addition, it is appropriate to amend paragraph “v” of Part 3 of Article 164 and paragraph “b” of Part 3 of Article 166 of the Criminal Code reads as follows: “If it is committed by illegally entering a house, warehouse, other buildings or *by means of a vehicle*.”

10. It is proposed to supplement with the following Article 227¹ the Criminal Code:

“Article 227¹. Preparation, forgery, sale or use of license plates or identification numbers of motor vehicles and their trailers (semi-trailers)

Illegal preparation, forgery, transfer or use of state license plates or identification numbers of motor vehicles and their trailers (semi-trailers), –

shall be punishable by a fine from one hundred to two hundred times the base calculation amount or deprivation of liberty for up to three years”.

11. It is proposed to supplement with following Parts 2 and 3 of Article 229 of the Criminal Code as follows: “*Those actions done:*

a) with force or threatening to use force;

b) if it was distributed using telecommunication networks, as well as the Internet

global information network, –

shall be punishable by restraint of liberty from one to three years”

If the actions provided for in the first or second Part of this Article cause serious bodily injury or other serious consequences, –

shall be punishable with deprivation of liberty for three to five years.”

12. It is proposed to supplement with the following Article 266¹ of the Criminal Code:

“Article 266¹. Driving a vehicle while intoxicated

Driving vehicles by a driver or a person who does not have the right to drive vehicles under the influence of alcoholic beverages or narcotic drugs, their analogues, psychotropic substances or other substances that affect the mind of a person the need to introduce a rule in the form of if it is committed after the administrative punishment for such an act, –

shall be punishable with deprivation of liberty from one to three years.”

13. It is proposed to introduce the following paragraph in Part 3 of Article 266 of the Criminal Code:

“That act committed:

g) if a person causes death as a result of being intoxicated by alcohol or narcotic drugs, psychotropic substances or their analogues or other substances that affect the person’s intelligence.”

III. Suggestions improving the practice of judicial and investigation bodies:

1. Paragraph 13 of the Decision of the Plenum of the Supreme Court of the Republic of Uzbekistan “On judicial practice in cases of intentional homicide” should be supplement as follows:

“Courts shall take this into account, intentional homicide in connection with the violation of honor or the unnatural satisfaction of sexual intercourse using force, only if there is a crime in the form of correct intent in relation to the culpable dishonor or the unnatural satisfaction of sexual intercourse using force and the result in the form of death, qualified with paragraph “z” of the second Part of Article 97 of the Criminal Code. In this case, in order to qualify the act as such, it is necessary to establish that there is a legal causation between the death caused by touching the honor or satisfying the sexual intercourse in an unnatural way using force.”, should be supplement an explanation in the following content.

2. It is proposed to supplement with paragraph 12 of the Decision of the Plenum of the Supreme Court of the Republic of Uzbekistan “On judicial practice in cases related to defamation and unnatural satisfaction of sexual needs” as follows:

“Light, moderate or severe injury to the victim during molestation or unnatural satisfaction of sexual desire is covered with the provisions of Article 118 or Article 119 of the Criminal Code, respectively, and does not require additional qualification with Articles 104, 105, 109 of the Criminal Code. If the victim is seriously injured during indecent or unnatural satisfaction of sexual desire, the perpetrator’s actions are covered with Article 118 or Article 119, Part 2, Paragraph “z” of the Criminal Code and do not require additional qualification with Article 104 of the Criminal Code.”

**НАУЧНЫЙ СОВЕТ DSc.07/13.05.20.Yu.22.03 ПО ПРИСУЖДЕНИЮ
УЧЕНЫХ СТЕПЕНЕЙ ПРИ ТАШКЕНТСКОМ ГОСУДАРСТВЕННОМ
ЮРИДИЧЕСКОМ УНИВЕРСИТЕТЕ**

**ТАШКЕНТСКИЙ ГОСУДАРСТВЕННЫЙ
ЮРИДИЧЕСКИЙ УНИВЕРСИТЕТ**

ХУДАЙКУЛОВ ФЕРУЗБЕК ХУРРАМОВИЧ

**ТЕОРЕТИЧЕСКИЕ И ПРАКТИЧЕСКИЕ АСПЕКТЫ ОБЪЕКТИВНОЙ
СТОРОНЫ СОСТАВА ПРЕСТУПЛЕНИЯ**

12.00.08 – Уголовное право. Криминология. Уголовно-исполнительное право

АВТОРЕФЕРАТ
диссертации доктора юридических наук (Doctor of Science)

Ташкент – 2023

Тема диссертации доктора наук (Doctor of Science) зарегистрирована Высшей аттестационной комиссией при Министерстве высшего образования, науки и инновации Республики Узбекистан за № B2021.4.DSc/Yu185.

Диссертация выполнена в Ташкентском государственном юридическом университете.

Автореферат диссертации размещен на трех языках (узбекском, русском, английском (резюме)) на веб-сайте Научного совета (<https://tsul.uz/uz/fan/avtoreferatlar>) и Информационно-образовательном портале «Ziyonet» (www.ziyonet.uz).

Научный консультант:	Абдурасулова Кумринисо Раимкуловна доктор юридических наук, профессор
Официальные оппоненты:	Рустамбаев Мирзаюсуп Хакимович доктор юридических наук, профессор Кабулов Рустам доктор юридических наук, профессор Абдукодиров Шерзод Ёкубжонович доктор юридических наук, доцент
Ведущая организация:	Высшая школа судей при Высшем судейском совете Республики Узбекистан

Защита диссертации состоится 15 декабря 2023 года в 14⁰⁰ на заседании Научного совета DSc.07/13.05.20.Yu.22.03 при Ташкентском государственном юридическом университете (Адрес: 100047, г. Ташкент, улица Сайилгох, 35. Тел.: +99871 233-66-36; факс: +99871 233-37-48; e-mail: info@tsul.uz).

С диссертацией можно ознакомиться в Информационно-ресурсном центре Ташкентского государственного юридического университета (зарегистрировано за № 1200). (Адрес: 100047, г. Ташкент, ул. Амира Темура, 13. Тел.: +99871 233-66-36).

Автореферат диссертации разослан 30 ноября 2023 года.

(протокол реестра № 11 от 30 ноября 2023 года).

А.А. Отажонов

Председатель Научного совета по присуждению ученых степеней, доктор юридических наук (DSc), профессор

М.К. Уразалиев

Научный секретарь Научного совета по присуждению ученых степеней, доктор юридических наук (DSc), профессор

Н.С. Салаев

Председатель научного семинара при Научном совете по присуждению ученых степеней, доктор юридических наук (DSc), профессор

ВВЕДЕНИЕ (аннотация диссертации доктора наук (DSc))

Целью исследования является поиск решения выявленных проблем на основе комплексного изучения теоретических и практических аспектов объективной стороны состава преступления, разработка предложений и рекомендаций по совершенствованию соответствующих норм Уголовного кодекса.

Объектом исследования является система уголовно-правовых отношений, связанных с пониманием и квалификацией характера обязательных и факультативных признаков объективной стороны состава преступления.

Научная новизна исследования заключается в следующем:

Обосновано введение статьи 128¹, предусматривающей ответственность за вступление в половую связь с лицом в возрасте от шестнадцати до восемнадцати лет путем предоставления материальных ценностей либо имущественной или иной выгоды;

Обосновано, что УК следует дополнить статьей 202¹, устанавливающей ответственность за жестокое обращение с животными;

Обосновано предложение дополнить УК статьей 232¹, устанавливающей ответственность за вмешательство в процесс принудительного исполнения судебных актов и актов иных органов;

Обосновано включение в УК статьи 115¹, предусматривающей ответственность за принуждение человека к согласию на изъятие у него органов и (или) тканей для трансплантации;

Обосновано предложение дополнить УК статьей 133¹, устанавливающей ответственность за куплю-продажу органов и (или) тканей человека;

Обосновано включение в УК статьи 133², устанавливающей ответственность за вывоз за пределы Республики Узбекистан трансплантируемых органов и (или) тканей человека.

Внедрение результатов исследования. Результаты исследования теоретических и практических аспектов объективной стороны состава преступления внедрены в следующих случаях:

предложение о дополнении УК статьей 128¹, предусматривающей ответственность за вступление в половую связь с лицом в возрасте от шестнадцати до восемнадцати лет путем предоставления материальных ценностей либо имущественной или иной выгоды, было использовано при разработке ч. 2 ст. 1 ЗРУ–673 от 12 февраля 2021 г. «О внесении изменений и дополнений в уголовный, уголовно-процессуальный кодексы Республики Узбекистан и кодекс Республики Узбекистан об административной ответственности» (Акт Комитета по противодействию коррупции и судебно-правовым вопросам Законодательной палаты Олий Мажлиса Республики Узбекистан №06/1-05/1445 от 27.09.2022 года, Акт Комитета по правовым вопросам и противодействию коррупции Сената Олий Мажлиса Республики Узбекистан №06/13/45 от 25.08.2022 года). Принятие этого предложения послужило обеспечению надлежащей правовой оценки и справедливого

наказания за вступление в половую связь с лицом в возрасте от шестнадцати до восемнадцати лет путем предоставления материальных ценностей либо имущественной или иной выгоды;

предложение о дополнении УК статьей 202¹, устанавливающей ответственность за жестокое обращение с животными, использовано при разработке ч. 2 ст. 1 ЗРУ–711 от 25 августа 2021 г. «О внесении изменений и дополнений в некоторые законодательные акты Республики Узбекистан» (Акт Комитета по противодействию коррупции и судебно-правовым вопросам Законодательной палаты Олий Мажлиса Республики Узбекистан №06/1-05/1445 от 27.09.2022 года, Акт Комитета по правовым вопросам и противодействию коррупции Сената Олий Мажлиса Республики Узбекистан №06/13/45 от 25.08.2022 года). Принятие этого предложения послужило предотвращению жестокого обращения с животными и установлению ответственности за совершение противоправного деяния;

предложение о внесении статьи 232¹ в УК, устанавливающей ответственность за вмешательство в процесс принудительного исполнения судебных актов и актов иных органов, использовано при разработке ч. 2 ст. 1 ЗРУ–762 от 11 апреля 2022 г. «О внесении изменений и дополнений в некоторые законодательные акты Республики Узбекистан в связи с дальнейшим совершенствованием системы исполнения судебных актов и актов иных органов» (Акт Комитета по противодействию коррупции и судебно-правовым вопросам Законодательной палаты Олий Мажлиса Республики Узбекистан №06/1-05/1445 от 27.09.2022 года, Акт Комитета по правовым вопросам и противодействию коррупции Сената Олий Мажлиса Республики Узбекистан №06/13/45 от 25.08.2022 года). Это предложение послужило установлению ответственности за совершение данного преступления и правильной квалификации деяния;

предложение о дополнении УК статьей 115¹, предусматривающей ответственность за принуждение человека к согласию на изъятие у него органов и (или) тканей для трансплантации, использовано при разработке ч. 3 ст. 1 ЗРУ–780 от 23 июня 2022 г. «О внесении изменений и дополнений в некоторые законодательные акты Республики Узбекистан в связи с принятием Закона Республики Узбекистан «О трансплантации органов и тканей человека»» (Акт Комитета по противодействию коррупции и судебно-правовым вопросам Законодательной палаты Олий Мажлиса Республики Узбекистан №06/1-05/1445 от 27.09.2022 года, Акт Комитета по правовым вопросам и противодействию коррупции Сената Олий Мажлиса Республики Узбекистан №06/13/45 от 25.08.2022 года). Это предложение послужило правильной квалификации преступления, совершенного обвиняемым, и назначению справедливого наказания за это деяние;

предложение о дополнении УК статьей 133¹, устанавливающей ответственность за куплю-продажу органов и (или) тканей человека, использовано при разработке ч. 5 ст. 1 ЗРУ–780 от 23 июня 2022 г. «О внесении изменений и дополнений в некоторые законодательные акты Республики Узбекистан в связи с принятием Закона Республики Узбекистан

«О трансплантации органов и тканей человека»» (Акт Комитета по противодействию коррупции и судебно-правовым вопросам Законодательной палаты Олий Мажлиса Республики Узбекистан №06/1-05/1445 от 27.09.2022 года, Акт Комитета по правовым вопросам и противодействию коррупции Сената Олий Мажлиса Республики Узбекистан №06/13/45 от 25.08.2022 года). Принятие этого предложения послужило предотвращению купли-продажи органов и (или) тканей человека, установливающую ответственности за совершение виновного деяния и назначению справедливого наказания;

предложение о дополнении УК статьей 133², устанавливающей ответственность за вывоз за пределы Республики Узбекистан трансплантируемых органов и (или) тканей человека, использовано при разработке ч. 5 ст. 1 ЗРУ–780 от 23 июня 2022 г. «О внесении изменений и дополнений в некоторые законодательные акты Республики Узбекистан в связи с принятием Закона Республики Узбекистан «О трансплантации органов и тканей человека»» (Акт Комитета по противодействию коррупции и судебно-правовым вопросам Законодательной палаты Олий Мажлиса Республики Узбекистан №06/1-05/1445 от 27.09.2022 года, Акт Комитета по правовым вопросам и противодействию коррупции Сената Олий Мажлиса Республики Узбекистан №06/13/45 от 25.08.2022 года). Принятие настоящего предложения послужило основой в установлении ответственности за вывоз за пределы Республики Узбекистан трансплантируемых органов и (или) тканей человека, правильной квалификации преступления, совершенного обвиняемым и назначения справедливого наказания.

Апробация результатов исследований. Результаты исследования обсуждались на 9 научных конференциях, в том числе на 5-х международных и 4-х республиканских научно-практических конференциях.

Публикация результатов исследований. Всего по теме диссертации опубликовано 36 научных работ, в том числе 1 монография, 26 научных статей (9 из них в зарубежных изданиях).

Структура и объем диссертации. Диссертация состоит из введения, четырех глав, заключения, списка использованной литературы и приложения. Объем диссертации составляет 260 страниц.

ЭЪЛОН ҚИЛИНГАН ИШЛАР РЎЙХАТИ
СПИСОК ОПУБЛИКОВАННЫХ РАБОТ
LIST OF PUBLISHED WORKS

I бўлим (I часть; I part)

1. Xudaykulov F.X. Jinoyat tarkibi obyektiv tomonining zaruriy va fakultativ belgilari. Monografiya // Mas'ul muharrir: yu.f.d., professor Q.R. Abdurasulova. – Toshkent: “Lesson Press” nashriyoti. 2023. – 310 b.

2. Xudaykulov F.X. Jinoyat tarkibi obyektiv tomoni zaruriy va fakultativ belgilarining jinoyat-huquqiy ahamiyati: tahlil va taklif // Huquqiy tadqiqotlar jurnali – Журнал правовых исследований – Journal of law research. – Toshkent, 2021-y. – № 3. 1 jild. – B. 73-81.

3. Xudaykulov F.X. Jinoyatning obyektiv tomoni belgilari jinoyat tarkibi to'g'risidagi konsepsiyalarning shakllanish asosi sifatida: tahlil va taklif // Yuridik fanlar axborotnomasi – Review of law sciences № 01/2022-son. – Toshkent: TDYU, 2022. – B. 75–85.

4. Xudaykulov F.X. Time of committing a crime is necessary sign of intentional killing of newly-born child committed by mother: national and foreign experiences // Huquqiy tadqiqotlar jurnali – Журнал правовых исследований – Journal of law research. – Toshkent, 2022 y. – № 6. 7 jild. – B. 63–70.

5. Xudaykulov F.X. Jinoyat tarkibi obyektiv tomoni va “actus reus” konsepsiyasining qiyosiy-huquqiy tahlili: muammo va taklif // Huquqiy tadqiqotlar jurnali – Журнал правовых исследований – Journal of law research. – Toshkent, 2022 y. – № 3. maxsus son.. – B. 56–68.

6. Xudaykulov F.X. Jinoyat tarkibi to'g'risidagi ta'limotning shakllanishi va rivojlanishida jinoyat obyektiv tomoni belgilarining o'rni: qiyosiy tahlil // Yurisprudensiya № 02/2022-son. – Toshkent: TDYU, 2022. – B. 101–115.

7. Xudaykulov F.X. Jinoyat obyektiv tomoni fakultativ belgilari: ularning umumiy tavsifi va jinoyat-huquqiy ahamiyati // Huquqiy tadqiqotlar jurnali – Журнал правовых исследований – Journal of law research. – Toshkent, 2022 y. – № 9. 7 jild. – B. 87–99.

8. Xudaykulov F.X. Sababiy bog'lanish jinoyat obyektiv tomoni belgisi sifatida: uni aniqlashda sababiyat zanjiri, shart-sharoitlar, mezon va qoidalar // Huquqiy tadqiqotlar jurnali – Журнал правовых исследований – Journal of law research. – Toshkent, 2022 y. – № 11. 7 jild. – B. 52–65.

9. Xudaykulov F.X. Ijtimoiy xavfli xulq-atvordan iborat qilmish jinoyat faoliyat sifatida: nazariy va amaliy jihatlari // Huquqiy tadqiqotlar jurnali – Журнал правовых исследований – Journal of law research. – Toshkent, 2022 y. – № 12. 7 jild. – B. 74–85.

10. Xudaykulov F.X. Jinoyat tarkibi obyektiv tomonining qonunchilikdagi tuzilishi (konstruksiyasi): tahlil va taklif // Yurisprudensiya № 05/2022-son. – Toshkent: TDYU, 2022. – B. 117–134.

11. Xudaykulov F.X. Ijtimoiy xavfli qilmish jinoyat tarkibi obyektiv tomonining zaruriy belgisi: nazariy va amaliy jihatlari // Jamiyat va innovatsiyalar

– Общество и инновации – Society and innovations. Special Issue. № 07 (2022) / ISSN 2181-1415. – В. 320-328.

12. Xudaykulov F.X. Jinoyat huquqida aralash harakatsizlikning nazariy va amaliy jihatlari // Huquqiy tadqiqotlar jurnali – Журнал правовых исследований – Journal of law research. – Toshkent, 2023 y. – № 2. 8 jild. – В. 64–76.

13. Xudaykulov F.X. Ijtimoiy xavfli oqibat tushunchasi, tabiati va tuzilishi: nazariya, qonun va amaliyot // Yurisprudensiya № 01/2023-son. – Toshkent: TDYU, 2023. – В. 114–125.

14. Xudaykulov F.X. Jinoyat huquqida sababiy bog‘lanish nazariyalari va ularning muammolari // Huquqiy tadqiqotlar jurnali – Журнал правовых исследований – Journal of law research. – Toshkent, 2023 y. – № 7. 8 jild. – В. 69–82.

15. Xudaykulov F.X. The objective side of crime and corpus delicti: a comparative legal analysis of the criminal law of Uzbekistan and foreign countries // European Journal of Research. <https://journalofresearch.info/> – Vienna, Austria. Volume 7, Issue 1. 2022. – P. 57–71. (Impact factor (SJIF: 6.088, IFS 3,8. UIF 2.7));

16. Xudaykulov F.X. The objective side of crime and the actus reus concept: comparative-legal analysis, problems and proposals // International Journal of Advance Scientific Research (ISSN – 2750-1396) volume 02, issue 12. 2022. – P. 100–115. (<https://doi.org/10.37547/ijasr-02-12-15>) (Impact factor (SJIF: 6.741));

17. Xudaykulov F.X. Signs of the objective side of crime in the theory of criminal law belonging to the Romano-Germanic legal family: theoretical and practical problems // The American Journal of Political Science Law and Criminology. – Vol. 3. Issue №. 01 (2021): – P. 57–62. (ISSN – 2693-0803) (<https://doi.org/10.37547/tajpslc/Volume03Issue01-09>) (Impact factor (SJIF: 7.304));

18. Xudaykulov F.X. Concepts of causation in criminal law: problems, analysis and solutions // International Journal of Advance Scientific Research (ISSN – 2750-1396) VOLUME 03 ISSUE 06. 2023. – P. 276–293. (<https://doi.org/10.37547/ijasr-03-06-48>) (Impact factor (SJIF: 6.741));

19. Xudaykulov F.X. The objective side of crime in the theory of criminal law and its significance // Modern scientific challenges and trends: a collection scientific works of the International scientific conference (28th February, 2021) – Warsaw: Sp. z o. o. “iScience”, 2021. ISSUE 2(36). Part 2. – P. 122–127. ISBN 978-83-949403-3-1.

20. Xudaykulov F.X. Jinoiy faoliyatdan olingan daromadlarni legallashtirish jinoyati usullari: tahlil va taklif // Huquqiy tadqiqotlar jurnali. – Toshkent, 2019 y. – № 4. – В. 80–87.

21. Xudaykulov F.X. Jinoyat tarkibi tushunchasi, turlari va uning obyektiv tomoni belgilari: tahlil va taklif // Huquqiy tadqiqotlar jurnali – Журнал правовых исследований – Journal of law research. – Toshkent, 2020 y. – № 3. Maxsus son. – В. 187-196.

22. Xudaykulov F.X. Offence of infanticide: national and foreign experiences // Yuridik fanlar axborotnomasi – Review of law sciences № 04/2020-son. T.:

TDYU, 2020. – B. 140–146.

23. Xudaykulov F.X. Force and threat of violence are as the ways of commission of rape: national and foreign experience // *Psychology and Education Journal*. – Vol. 58. No. 1 (2021). – P. 1123–1132. (ISSN:00333077) (<https://doi.org/10.17762/pae.v58i1.862>);

24. Xudaykulov F.X. Jinoyat obyektiv tomoni zaruriy belgilarining o‘ziga xos xususiyatlari: tahlil va taklif // *Jamiyat va innovatsiyalar – Общество и инновации – Society and innovations. Special Issue. № 06 (2022) / ISSN 2181-1415*. – B. 310-322.

25. Xudaykulov F.X. Jinoyat huquqida sababiy bog‘lanish va uning determinizm bilan o‘zaro munosabati // *Jamiyat va innovatsiyalar – Общество и инновации – Society and innovations. Special Issue. № 08 (2022) / ISSN 2181-1415*. – B. 123-131.

26. Xudaykulov F.X. Jinoiy harakat ijtimoiy xavfli qilmishning faol shakli sifatida: umumiy va maxsus belgilar tahlili // *Jamiyat va innovatsiyalar – Общество и инновации – Society and innovations. Special Issue. № 09 (2022) / ISSN 2181-1415*. – B. 71-79.

27. Xudaykulov F.X. Jinoiy harakatsizlik ijtimoiy xavfli xulq-atvorning shakli sifatida: uning huquqiy tabiati, mezonlari va belgilari // *Jamiyat va innovatsiyalar – Общество и инновации – Society and innovations. Special Issue. 3. № 6 (2022) / ISSN 2181-1415*. – B. 123-136.

II бўлим (II часть; II part)

28. Xudaykulov F.X. The concept, signs and meaning of the objective side of the crime // «Актуальные проблемы уголовного и уголовно-процессуального законодательства»: материалы международной научно-практической онлайн конференции. Алматы, 2021. – С. 144–146. ISBN 978-601-08-1354-0.

29. Xudaykulov F.X. Prevention of serial crimes (homicides, rapes and their objective sides) // “Huquqbuzarliklar profilaktikasi tizimini rivojlantirish istiqbollari” mavzusida o‘tkazilgan respublika onlayn ilmiy-amaliy konferensiya materiallari to‘plami // Mas‘ul muharrir: kafedra mudiri v.b. S.K.Ochilov. – T.: TDYU IF, 2021 – B. 209–217.

30. Xudaykulov F.X. Korruptsiyaviy jinoyatlar obyektiv tomoni va ularning o‘ziga xos xususiyatlari // *Konstitutsiya – inson qadr-qimmatini ta‘minlashning mustahkam kafolati // Respublika ilmiy-amaliy konferensiyasi to‘plami*. –T.: TDYU nashriyoti, 2022. – B. 140–144.

31. Xudaykulov F.X. Problems of qualification crimes on the signs of the objective side // «Актуальные проблемы уголовного права Республики Казахстан и Республики Узбекистан: опыт, проблемы, решения»: сборник докладов международной научно-практической конференции. Ташкент, 30 июня 2022 г. Ташкент: Изд-во ТГЮУ, 2022. – С. 106–110. ББК 67.4

32. Xudaykulov F.X. Causal link in criminal law and its relationship with determinism: theoretical instrumental analysis // «Строительство Нового Казахстана: политико-правовые, экономические и социально-культурные

основы»: материалы международной научно-практической конференции. – г. Алматы, 2022. АО «Алматы-Болашак», 2022. – С. 255–259. ISBN 978-601-7646-54-7

33. Xudaykulov F.X. The nature, structure and types of socially dangerous consequences in criminal law: analysis and proposal // «Актуальные проблемы и современные тенденции юридических наук», посвященной памяти доктора юридических наук, профессора, академика, заслуженного деятеля науки узбекистана Хадичи Сулеймановой»: сборник докладов международной научно-практической конференции. Ташкент, 21 июня 2023 г. Ташкент: Изд-во ТГЮУ, 2023. – С. 68–79.

34. Xudaykulov F.X. Problems of causality in inaction: analysis and proposals // «Новый Справедливый Казахстан: верховенство права, политическая модернизация и социально-экономические реформы»: материалы международной научно-практической конференции. – г. Алматы, 2023. – С. 310–317. ISBN 978-601-7646-58-5

35. Xudaykulov F.X. Jinoyat sodir etish vaqti, joyi, usuli va holati jinoyat tarkibi obyektiv tomonining mustaqil belgilari: nazariy tahlil va taklif // «Взаимодействие науки и общества–путь к инновационному развитию» материалы республиканской онлайн конференции. – 2023. – Т. 1. – №. 1. – С. 105-118.

36. Xudaykulov F.X. Ijtimoiy xavfli oqibat, sababiy bog‘lanish, jinoyat sodir etish quroli va vositasi jinoyat tarkibi obyektiv tomoni fakultativ belgisi sifatida: nazariy muammolar va tahlil // «Узбекистан-2030: наука, образование и экономика в развитии» материалы республиканской онлайн конференции. – 2023. – Т. 1. – №. 1. – С. 44-54.

Avtoreferat TDYU “Yuridik fanlar Axborotnomasi” jurnali tahririyatida tahrirdan o‘tkazilib, o‘zbek, rus va ingliz tillaridagi matnlar o‘zaro muvofiqlashtirildi.

Bosishga ruxsat etildi: 28.11.2023-y.
Bichimi 60x84 1/8. “Times New Roman”
garniturada raqamli bosma usulida bosildi.
Shartli bosma tabog‘i 4,4. Adadi: 100. Buyurtma: № 112

100060, Toshkent, Ya. G‘ulomov ko‘chasi, 74.

“TOP IMAGE MEDIA”
bosmaxonasida chop etildi.