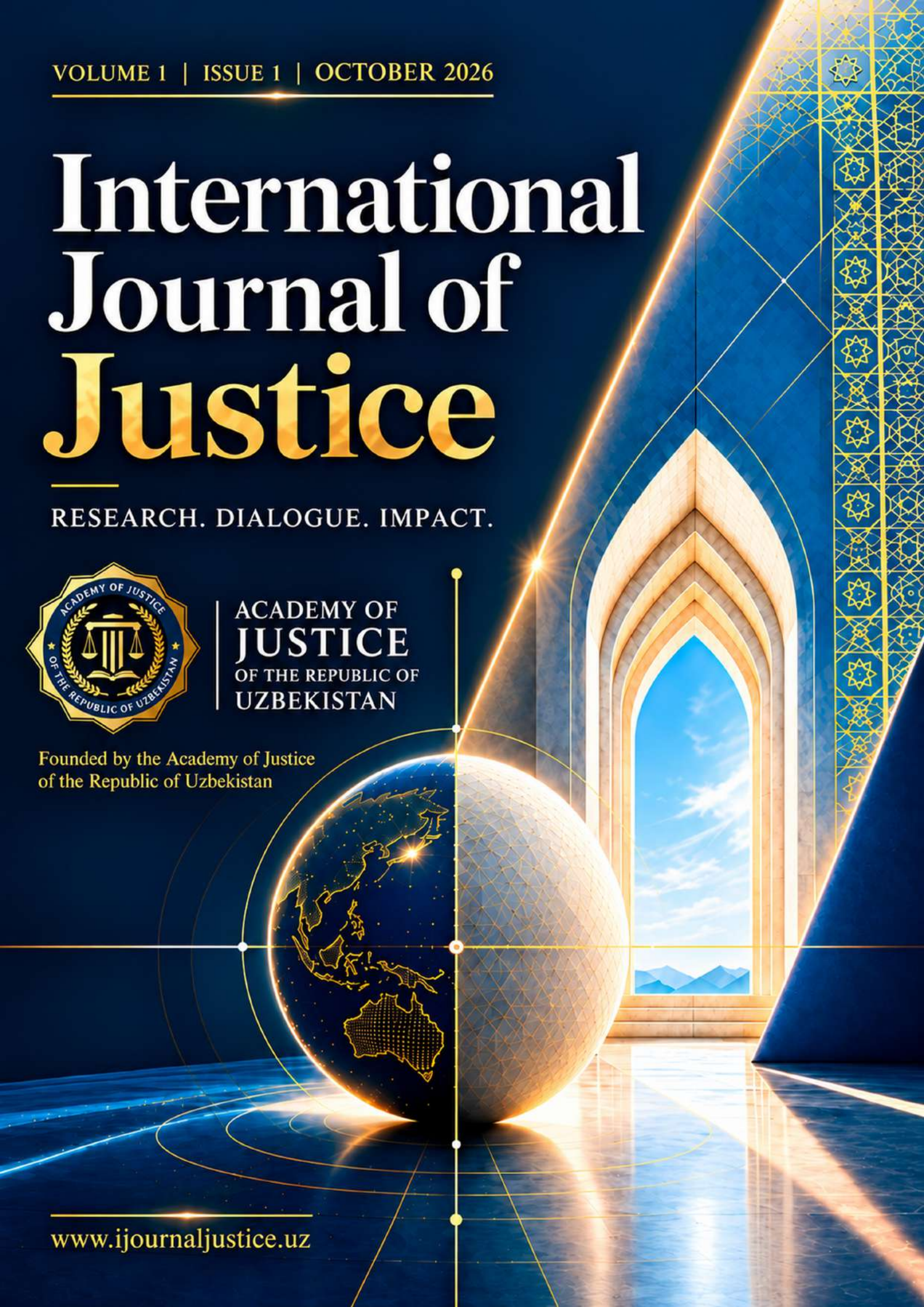
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CONCEPT OF HELPLESSNESS AND ITS SIGNIFICANCE IN THE QUALIFICATION OF CRIMES

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Abstract. *The article analyzes problems associated with the criminal-law qualification of crimes committed against persons in a helpless state. It examines the content of the concept of helplessness, the circumstances that may cause such a state, and its significance as a qualifying or aggravating element in the legal assessment of an offence. Particular attention is paid to the victim's age, physical and mental condition, sleep, unconsciousness and severe intoxication. The study also identifies qualification problems arising from the absence of a precise statutory definition of helplessness in the criminal legislation of Uzbekistan. Based on comparative legal analysis, the article substantiates proposals to introduce a criminal-law definition of helplessness and a separate concept of the victim's procedural helplessness. The proposed approach is aimed at improving legal certainty, ensuring uniform qualification of offences and strengthening the criminal-law and procedural protection of persons who are objectively unable to understand or resist criminal conduct.*

Keywords**:** *helplessness, victim, crime, qualification, criminal-law protection, elements of crime, aggravating circumstance, procedural helplessness.*

Article 1 of the Constitution of the Republic of Uzbekistan establishes Uzbekistan as a sovereign, democratic, legal, social and secular state with a republican form of government. The principle of a "social state" imposes on the state the task of giving priority protection to vulnerable groups of society, including children, elderly persons and persons with disabilities [1]. Therefore, as a necessary condition for ensuring the criminal-law protection of persons in a helpless state, it is important to examine the nature of threats to personal security and the structure of the rights and lawful interests affected by such threats.

The rules developed within the universal human-rights protection system and reflected in constitutional norms establish the general legal foundations of this issue. The Universal Declaration of Human Rights enshrines rules concerning human life and dignity, personal integrity, the prohibition of torture and cruel treatment, and the protection of rights and freedoms [2]. The International Covenant on Civil and Political Rights establishes respect for the inherent dignity of the human person. The International Covenant on Economic, Social and Cultural Rights establishes the principle of ensuring the highest attainable standard of physical and mental health. The Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities also provide measures for protecting relevant categories of persons from violence and exploitation.

These provisions demonstrate the relevance of protecting the rights and freedoms of persons in a helpless state from criminal encroachment. The socio-legal necessity of systematic protection of the concept of a "person in a helpless state" in criminal legislation is connected with the higher degree of victimization of the most vulnerable and

defenseless groups of society and with the increased social danger of attacks committed against them.

The study employed comparative legal, systemic-structural, logical-legal and statistical analysis methods. The research object comprised materials of judicial and investigative practice concerning crimes committed against persons in a helpless state, national legislation, and the criminal-law norms and practice of foreign countries, including France, Latvia, Estonia, Belarus, Kazakhstan, Germany, the Netherlands, Switzerland and Japan. Relevant judicial decisions and statistical data for the respective periods were also comparatively examined [12; 13].

The research established that the security of persons in a helpless state constitutes a system of objective and subjective elements characterizing relations in which such persons are protected against criminal threats to life, health, material and non-material benefits, rights and lawful interests arising in their interaction with other persons, society and the state.

The study identifies the following categories of persons in a helpless state: persons with physiological helplessness, including seriously ill persons, elderly persons and minors; persons suffering from mental disorders; persons in a state of severe intoxication whose ability to resist or protect themselves is limited; and persons in biological sleep or an unconscious state.

Helplessness is not limited to the internal characteristics of a person. A person may also become helpless as a result of the actions of other persons, natural or technological events, or other external circumstances. A person who is tied, restrained, trapped, submerged, crushed or otherwise placed in a situation threatening life or health and who cannot independently escape from that situation may also be regarded as being in a helpless state.

Under the Criminal Code of the Republic of Uzbekistan, committing a crime against a person in a helpless state may constitute a general aggravating circumstance or an essential qualifying element of a specific offence. For example, Article 56, paragraph 1(b), Article 97, paragraph 2(v), Article 110, paragraph 2(v), Article 115[1], paragraph 2, Article 118, paragraph 1, Article 119, paragraph 1, Article 135, paragraph 2(b), and Article 277, paragraph 3(d) contain circumstances related to helplessness as qualifying or aggravating elements.

One of the most serious attacks that may be committed against a person in a helpless state is intentional homicide (Article 97, paragraph 2(v), of the Criminal Code). In assessing all forms of encroachment, alongside the victim's helpless condition, it is important to establish whether the offender was aware of that condition. The offender's use of the victim's helplessness and awareness that the victim was in such a state constitute an important subjective element for qualification.

Analysis of judicial decisions made it possible to identify two principal approaches. Under the first approach, the relationship between the victim's condition and the offender's awareness of that condition is reflected in the reasoning section of the judgment. Under the second approach, the victim's helpless state is assessed as a circumstance justifying the imposition of a more severe punishment.

Comparative analysis of foreign experience and legislation demonstrates two principal approaches to the legal regulation of

helplessness: creating a system of special provisions describing situational helplessness; and ensuring effective identification of indicators of situational helplessness and, on that basis, application of a special legal provision.

For example, in judicial practice of the Republic of Belarus, a helpless state is interpreted as a condition in which, due to the physical or mental condition of the victim, the victim is deprived of the ability to actively resist the offender, escape the attack or otherwise oppose it [14]. The Criminal Code of Kazakhstan demonstrates that young age and helplessness are not identical concepts. The legislation of Germany and Switzerland also indicates that helplessness may be determined by the circumstances and environment in which the crime was committed.

In practice, the ambiguity of terminology, deficiencies in the structure of legal provisions and the absence of a statutory definition of "person in a helpless state" create a need to unify the content of this concept.

Based on the findings of the study, the following scientific and practical proposals are put forward.

Introduction of a criminal-law definition. It is appropriate to introduce the following definition of helplessness into criminal legislation: "Helplessness is the psychosomatic status of a victim at the time of the commission of a crime that prevents the victim from understanding the nature and significance of the offender's actions or from resisting the offender."

Clarification of causative factors. The principal circumstances causing helplessness—minority, advanced age, physical or mental impairments, somatic illnesses, severe alcohol or drug intoxication, sleep and unconsciousness—should be clearly established in legislation.

Improvement of Article 56 of the Criminal Code. It is appropriate to state paragraph 1(b) of Article 56 as "against a victim who is in a helpless state".

Liability for rendering a victim helpless by substances. The legal consequences of rendering a victim helpless through psychotropic, narcotic or potent substances that create a real danger to life or health should be separately established.

Formation of the concept of procedural helplessness. It is proposed to introduce the following rule: "The victim's procedural helplessness is a psychosomatic status that, during investigation of a case, prevents the victim from understanding his or her criminal-procedural status, participating in procedural actions, or independently protecting his or her rights and lawful interests."

Preventive and technical measures. Special law-enforcement and preventive mechanisms for protecting persons in a helpless state should be broadly implemented, including simplified communication tools and information-technology resources for persons with limited mobility.

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