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# Penal protection of medical staff on the territory of the Russian Federation



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## ABSTRACT

The aim of investigation is to analyze the Russian criminal legislation for the purpose of medical staff's protection during the fulfillment of their professional duties. In our work we used a complex of common scientific methods, methods of comparative and historical analysis, and also bibliographical and analytical methods. It seems to be evident that the realization of the given civil right and ensuring of the stability of the constitutional system would be impossible without persons having special knowledge and required qualification who are deputed to provide medical care to incarcerated individuals. In this connection, medical workers play the basic role in the securing of citizens' rights particularly in relation to protection of their health. At the same time, application of violence in relation to medical staff during the last period of time happened rather often in Russia. Its consequences shown in real, live examples are very sad. The attacks on physicians have become more frequent and lead to health trespassing of all kinds, even death and such attacks set a dangerous precedent and lead to a significant level of deterioration in the social

atmosphere. In such conditions, medical workers need reliable legal protection while fulfilling professional duties. Criminal Code of the Russian Federation stipulates several regulations to protect the rights of medical professionals and overall security in Russia, which is further discussed in this article. The Russian Criminal Legislation aims at ensuring the normal functioning of health system in Russia, which is one of the main aspects of national security. However, many aspects of legal regulations of the Russian health system aren't fully accommodate and leave out many areas that require serious attention, and therefore appropriate modifications to, and addition of, policies to guard against criminal acts that manifest in many ways are critically necessary. In the Russian society, we already have all the preconditions for defining medical workers as not only special subjects vested with special legal rights given the nature of their interactions with patients but also as special victims because of the scope and magnitude of risk of injuries or bodily harm is much higher compared to regular citizens.

**Keywords:** Physician; life; health; criminal liability; Russia

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## INTRODUCTION

Human health can be undoubtedly considered to be one of the most important values,<sup>1,2</sup> which, because of their special significance and inviolability, were always paid great attention in Russia.<sup>3,4</sup> Population health in Russia is traditionally under protection of not only health system<sup>5-7</sup> but also of special provisions under Russian laws, specifically provisions of article 41 of the Russian Federation Constitution.<sup>8</sup> In accordance with the contents of the given article the right to health protection and medical care is accorded to all citizens. In addition, part 1 of article 14 of the Russian Federation Constitution simultaneously secures the guarantee of the corresponding citizens' right represented in the free medical care given at the state as well as municipal health system establishments. This regulation is quite significant as at present in Russia there is an increase in the presence of different noninfectious diseases among population affect both children<sup>9</sup> and adults.<sup>10-12</sup> Such a rise in the level of diseases is mostly linked to genetic predisposition<sup>13-15</sup> and negative environmental impact specifically on the aging process of

the general population.<sup>16</sup> Russian physicians try to control them with the help of different modern therapeutic interventions.<sup>17,18</sup>

Progressive development of modern medicine in Russia has led to significant success in different branches, including cardiology,<sup>19-21</sup> diagnostics,<sup>22</sup> prophylaxis;<sup>23</sup> thus the advancement in medical field has a firm bearing on the development in the well-being of society.<sup>24</sup> However, notwithstanding success in the medical research, it is clear that all is not well or going in the right direction, given the existence of various problems that still beleaguer the general public, specially problems that are of jural character. The Russian State has always paid special attention to solving such problems in real time, making appropriate amendments to its legislation where required.

According to point 2, article 2 of the Federal law from November 11, 2011, No. 323 (the latest version was released on July 3, 2016), "About the basis of citizens' health protection in the Russian Federation" citizens' health protection should be

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understood as the system of political, economic, legal, social, scientific, and also medical measures which are realized by federal and regional bodies of the Russian Federation and also the local bodies of self-government, organizations, their authorities and other persons and also citizens in order to prevent diseases, sustain and strengthen the physical and mental health, enhance life expectancy of people, and help them lead a healthy and active life. Besides, as it follows from the given law, citizens' health protection also implies provision of people with medical care.<sup>25</sup>

While analyzing this theme it becomes evident that the content of medical care comes to medical intervention. One of the subjects who provides the medical care is the medical worker. So it seems possible to suppose that somehow longstanding and active life of the Russian population depends mostly on such workers.<sup>21,26</sup> At the same time, nowadays it often happens that medical workers experience both physical and mental impacts from their patients. In this connection, we feel there is a critical requirement for serious legislative amendments to better support the medical workers to maintain their health and well-being.

The aim of this investigation is to analyze the Russian Criminal Legislation in the context of medical workers' protection while they fulfill their professional duties.

## METHODS

For our investigation we used a complex set of scientific methods. For generalization and interpretation of information we used comparative and historical analysis of data. In the process of empirical data collection, we used the analysis of mass media and legislation. Bibliographical method of investigation allowed us to analyze the theoretical aspects of different definitions. The analytical method – methods of analysis and expertise was used for analyzing the various aspects of Russian legislation, in relation to its special provisions to reduce the risk of injury or danger for medical workers while they discharge their professional duties.

## RESULTS AND DISCUSSION

During 2016 the following, what can be called the severest examples of danger for medical workers fulfilling their duties in the Russian Federation, occurred.

1. In the Republic of Bashkortostan, a part of Russian Federation, an emergency team went to attend an emergency call in Tujmazy where they were met by aggressive drunk people who

demanded the fastest medical help for their friend. The ascertainment of clinical death of the patient by the physician and his medical assistant was met with hostile reactions from the people who called for him and in fury they pummeled the medical workers who were there only to help. The physician and his medical assistant were assaulted and injured and were taken to the hospital.<sup>27</sup>

2. In St. Petersburg, an ambulance was moving towards the hospital in order to deliver a patient with heart pathology; the ambulance had to come a halt on the way because of a car that was parked haphazardly and blocking the way. Soon, the ambulance driver and passengers of the car got into a heated argument, resulting in an altercation; obviously the passengers in the car didn't heed the request of the ambulance driver to move the car away so the ambulance could proceed. Then the passengers got out of the car, and there were about five of them, and they dragged the driver out of the ambulance and proceeded to beat him. When the police came, they could only one of the assailants, as the rest managed to escape.<sup>28</sup>
3. In Norilsk, a venereologist was shot by his patient because the patient felt that the attending doctor spent very little time treating time and that he wasn't receiving due attention from the physician.<sup>29</sup>

This list, obviously, by no means is exhaustive, as there were plenty of such events that took place in Russia wherein medical workers were subjected to violence, assaulted, and received bodily injuries. However, such a serious issue hasn't been given the attention that it deserves and is merely viewed as a routine aspect of everyday life in Russia.

Thus our analysis in this regard, specifically the legislative norms of the Russian law in the context of protection to be given medical workers while doing their job, led to us conclude that physicians in Russia indeed have the status of a special subject.<sup>25</sup> For example, as far as administrative-legal relationships are concerned physicians are subjects of such administrative violations of law as illegal occupation by private medical practice, private pharmaceutical activity, or folk medicine (alternative healing); as far as civil-legal relationships are concerned, physicians acquire the status of special subjects who are prohibited from getting presents from patients and also from indemnifying life or health by mistreatment and verification of will.<sup>30</sup>

It is known that the Ministry of Public Health of the Russian Federation and the Council of Federation of the Federal Assembly of the

Russian Federation are making amendments to a bill directed at toughening the liability and punitive measures to be implemented for attacking workers of medical establishments. It is especially important that this initiative is supported by medical workers themselves. So, according to the Chairman of the Board of Emergency Heads' Association of Russia, Alexej Bojkov, "Professional circles entirely support the necessity of strengthening and toughening of punishment for attacking medical workers fulfilling their official duties. It is important to make such a law act as quick as possible." Thanks to mass media, it is clear that the Ministry of Public Health of the Russian Federation is realizing the need to have two variants of legislative initiatives, first of which consists an adjustment of current penal norms, and the second, re-defining and passing a new rule in relation to *corpus delicti* as currently defined and its legal ramifications in the Criminal Code of the Russian Federation.

The authors of the article find that the realization of the given initiative of the Ministry of Public Health of the Russian Federation that contains more stringent punitive measures for dealing with attacks on medical workers is well-founded. It goes by the definition that it will indeed constitute a criminal liability if public agents were attacked.

It is notable that at the beginning of 2016 a group of deputies from the party "Spravedlivaja Rossia" came out with a similar initiative in the State Duma of the Russian Federation.<sup>32</sup> The main point of the corresponding bill consisted of the lodgement of emergency team members as a group of public agents with special status and revised punitive measures under the Russian Criminal Statutes, such as imprisonment lasting up to 10 years for attacking medical workers while they are discharging their professional duties. In other words, it was recommended to make amends to the article 318 titled "Application of violence towards public agents" under the Criminal Code of the Russian Federation. According to the opinion of the authors about the given bill, its realization could promote the provision of real protection of emergency medical staff's life and health as the new additional mechanisms envisaged and stipulated in the aforesaid article indeed offer better protection. Besides, as the result of fixation of the suggested changes in the criminal statute, Members of the Parliament Group from the party "Spravedlivaja Rossija" saw a rise in the level of safety for the emergency medical service team and also the strengthening of measures aimed at curtailing the outflow/exodus of specialists from emergency service in Russia.

Analyzing this question we should take into consideration what the Russian Federation status of "a social state" is implying in its provision for people's health protection, a key cornerstone of its constitution.<sup>33</sup> Besides, article 41 of the Russian Federation Constitution directly consolidates the right of every citizen for health protection and medical care.<sup>8</sup>

It seems to be evident that the realization of the said citizens' right and provision for the inviolability of constitutional order would be impossible to implement if there were no persons deployed who have special knowledge and required qualification to give medical help in necessary cases.<sup>34</sup> In this connection, medical workers play a basic role in provision of healthcare to citizens, which is their basic inviolable right under the constitution. At the same time, violence against medical workers happened rather often during 2016 in Russia. Real incidences of violence against those medical who are there to provide critical healthcare and/or medical interventions are indeed unfortunate. Thus, violence against medical professionals is indeed rising and leads to trespassing of different kinds and even death; such attacks eventually affect the society as a whole where citizens' safety becomes a major issue and leads to a social atmosphere marred by violence and citizens exposed to violence as a part and parcel of their everyday life. In these conditions medical workers need reliable legal protection while going about their duties. Criminal Code of the Russian Federation stands guard over their interests and security in Russia.<sup>35</sup>

Thus, the Russian Criminal Legislation aims at ensuring normal functioning of healthcare system in Russia, as providing and assuring healthcare to all state subjects is one of the foundations of national security. However, many aspects of legal regulation of Russian healthcare system aren't fully fine-tuned or effective, which dictates the need of bringing in appropriate modifications to fine-tune existing rules and regulations and statutes under the Russian constitution. Thus, it is safer to conclude that in the Russian society all necessary preconditions exist for viewing medical workers as not only special subjects endowed with additional legal protection but also as special victims given the criticality of the service they provide and the dangers they are exposed in the current scenario.

## CONCLUSION

Attacks on medical workers happened rather often during the last time in Russia leading to health

trespassing of different kinds and even death. It becomes clear that the extent of medical workers' legal protection in Russia during the fulfillment of their duties should be revised. The Criminal Code of the Russian Federation stands guard over their interests and security with the assumption that they are victims of a rather special kind given the dangers they are exposed to while rendering healthcare services or medical interventions. So, it is all the more likely that there will be more and more amends to provisions focusing on providing additional security for medical professionals while they are discharging their duties.

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