

RESEARCH ARTICLE/ARAŞTIRMA MAKALESİ

Violence against healthcare workers: Comparison of Türkiye and Germany

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Abstract

Context and Aim: Violence against healthcare workers has been defined as a situation that consists of physical/sexual/economic violence, verbal threat and/or behaviour caused by the patient, relatives of patient or any other individual. This study aims to raise awareness on why and how often violence against healthcare workers and what legal actions can be taken, by comparing Türkiye and Germany.

Methodology: The study is based on literature research and review. The literature review was conducted in "Google" and "Google Scholar" between March 2023 and April 2023 using the words "violence against health workers" and "violence in health".

Findings: The violence against healthcare workers is not only specific to Türkiye but also a worldwide problem. According to the Research on Violence in Health for the year 2022, 82.3% of health workers who participated in the research stated that they were worried about experiencing violence in the workplace while 67.3% of 2124 healthcare professionals experienced some type of violence at least once in their professional life and 71.8% of them witnessed workplace violence. The research also showed that 1 out of every 4 healthcare professionals was exposed to physical violence and physicians/dentists and nurses were exposed to more violence than other occupational groups. It was concluded that women were at more risk of verbal violence and men at more risk of physical violence.

Conclusion: Violence is one of the most significant problems experienced by healthcare workers. Thus, it is necessary to increase security measures in hospitals, train the staff on the methods to calm down patients' relatives, especially in the emergency services. Effective prevention of violence against healthcare workers is among the duties of the government. The healthcare workers who are faced to physical, verbal, or sexual violence may take legal actions such as file a criminal and/or compensation lawsuit.

Keywords: Violence against healthcare workers, violence in health, legislation on violence against healthcare workers, comparison of Türkiye and Germany.

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1. INTRODUCTION

Violence is a phenomenon that exists in daily life in the 21st century and threatens us in many dimensions (Polat, Violence 2019). The World Health Organization (WHO) stated in its 2014 report that over 1.3 million people died annually due to acts of violence, accounting for approximately 2.5% of all deaths worldwide, and that the majority of those who died were between the ages of 15 and 44 (WHO, 2014). According to 2022 figures, an estimated 1.4 million people die each year as a result of violence. This corresponds to approximately more than 3800 people per day, showing that violence is a serious public health and human rights issue (WHO, 2022).

When occupational violence is examined, it is discovered that the service, education, social service, and health sectors are the most prominent, with healthcare workers being 16 times more likely to be subjected to violence than other occupational groups (Uğurlu-Şantaş, 2023; OSHA, 2016). Violence against healthcare workers is an important problem in this context.

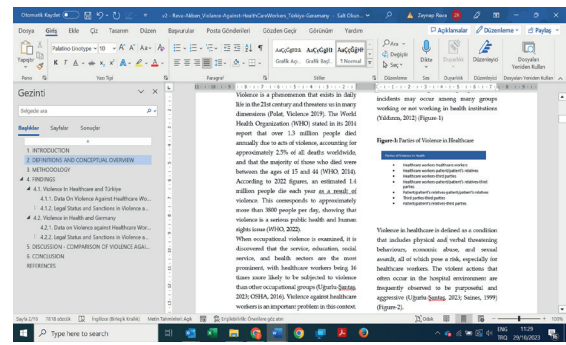
The present study aimed to raise awareness about violence against healthcare workers, which has been increasing in recent years, and to compare the situation of violence in health care in Türkiye with that in Germany, where the majority of physicians have chosen to live in recent years. The study also aims to raise awareness about the causes and frequency of violence against healthcare workers, as well as methods of dealing with this situation legally.

2. DEFINITIONS AND CONCEPTUAL OVERVIEW

Violence against healthcare workers is defined as “threatening behaviour, verbal threats, economic abuse, physical assault, and sexual assault that poses a risk to the healthcare worker by the patient, the patient’s relatives, or any other individual.”

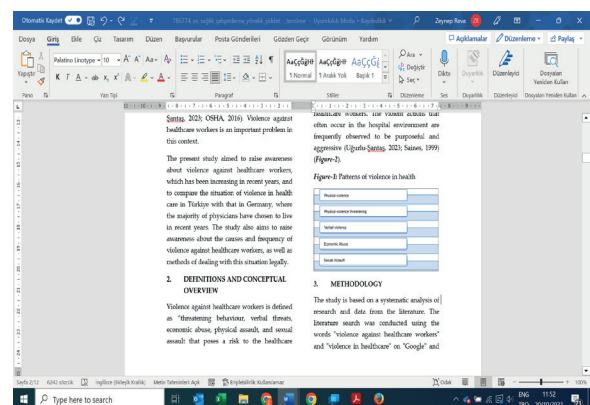
The perpetrators of violence against healthcare workers are not a particular group. Violence incidents may occur among many groups working or not working in health institutions (Yıldırım, 2012) (Figure-1)

Figure 1. Parties of Violence in Healthcare



Violence in healthcare is defined as a condition that includes physical and verbal threatening behaviours, economic abuse, and sexual assault, all of which pose a risk, especially for healthcare workers. The violent actions that often occur in the hospital environment are frequently observed to be purposeful and aggressive (Uğurlu-Şantaş, 2023; Saines, 1999) (Figure-2).

Figure 2. Patterns of violence in health



3. METHODOLOGY

The study is based on a systematic analysis of research and data from the literature. The literature search was conducted using the words “violence against healthcare workers” and “violence in healthcare” on “Google” and “Google Scholar” between March 1, 2023, and April 30, 2023.

4. FINDINGS

4.1. Violence in Healthcare and Türkiye

4.1.1. Data on Violence against Healthcare Workers in Türkiye and Its Patterns

In terms of the effects of violence against healthcare workers, in response to the increase

in violence against healthcare workers in Türkiye, the Grand National Assembly of Türkiye conducted research on the issue, and a report was prepared by the GNAT Research Commission in order to determine the measures to be taken (GNAT, 2013). The report concluded that “the effects of violence in the workplace against healthcare workers include physical injury, stress, loss of self-esteem, shock, anger, weakness, absenteeism, deterioration of social relationships, decreased job satisfaction and commitment to work, and labour turnover.”

In the light of the data obtained by compiling the findings of the studies conducted in Türkiye, the causes of violence in health are determined as follows: mental and behavioural disorders, low educational level and non-compliance with rules, performing numerous examinations and tests, patients’ stressed relatives, crowded and noisy environments, excessive demands of patients and their relatives, long waiting times, insufficient number of healthcare workers, misunderstandings, communication problems, and personal problems (Özcan-Bilgin, 2011).

A study suggests that the media trivializes violence against physicians by justifying it in the news headlines. It emphasizes the continuity of violence by using headlines that arouse suspicion about violent behaviour and thus build hopelessness (Küçük Durur, 2017). In a study of 352 healthcare workers, 11.6% were physicians, 39.8% were nurses, 18.8% were administrative staff, and 29.8% were other healthcare personnel. It was reported that 60.5% had been subjected to violence, with 28.7% having been subjected to physical violence, 59.9% to verbal/psychological violence, and 3.4% to sexual violence (Uğurlu-Şantaş, 2023). According to the same study, patients were responsible for 31.8% of physical violence, patients’ relatives for 50.2%, co-workers for 6.6%, managers for 10%, and other employees for 1.4%.

According to the 2022 Violence in Health Survey conducted by the Sağlık-Sen (Union of Health and Social Service Workers) Strategic Research Center Institute, 82.3% of healthcare workers were concerned about encountering violence at work (SASAM and Sağlık-Sen Stratejik

Araştırmalar Merkezi Enstitüsü, 2022). Of the 2124 health workers, 67.3% reported having experienced some form of violence at least once during their professional careers. 71.8% of the participants have witnessed violence at the workplace. According to the results, one out of every four healthcare workers is subjected to physical violence. Increases in working hours and the frequency of shifts increase the possibility of violence. It is stated that women are more at risk for verbal violence, and men are more at risk for physical violence.

The fact that 10,771 white code calls were made in 2016, 7,751 in 2017, and 101,984 in 2021 shows that healthcare workers are increasingly being subjected to violence (MoH, 2021 Annual Report; Takak Artantaş, 2018).

In response to the increasing incidence of violence in health care and the inadequacy of existing measures, the Turkish Medical Association (TTB) developed the “TTB Yanımda (TTB is on My Side)” mobile application in 2022. The primary objective of this initiative is to increase solidarity among physicians and facilitate their access to medical chambers (TTB, 2022). It was noted that although violence in health care is more common, the rate of reported violence is lower. This is due to the fact that serious situations involving injury are perceived as violent, whereas other types of violence are ignored (Al et al., 2012; Karakaş et al., 2021).

According to a study conducted to determine the relationship between patients’ attitudes toward using their rights and the thought of violence against healthcare workers, 54.4% of participants received information about patient rights (Çelik-Taşhan, 2014). The study found that 46.3% of the individuals received information from the media. According to the study, 18.7% of individuals attempted violence against health care workers, with 17% committing verbal violence. When asked about the reasons for violence against healthcare workers, the first two reasons given were that the healthcare worker did not care about the patient and relatives (12.3%) or that the healthcare worker did not help them (11.7%) in the study.

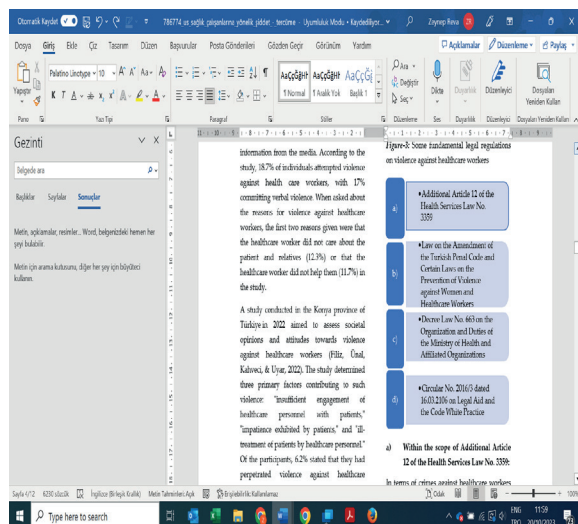
A study conducted in the Konya province of Türkiye in 2022 aimed to assess societal opinions and attitudes towards violence against healthcare workers (Filiz, Ünal, Kahveci, & Uyar, 2022). The study determined three primary factors contributing to such violence: “insufficient engagement of healthcare personnel with patients,” “impatience exhibited by patients,” and “ill-treatment of patients by healthcare personnel.” Of the participants, 6.2% stated that they had perpetrated violence against healthcare workers and that the type of violence they had perpetrated or witnessed was mostly verbal violence.

4.1.2. Legal Status and Sanctions in Violence against Healthcare Workers in Türkiye

Although there is a “Patient Rights Regulation” in Turkish law, there is no clear regulation on the rights of healthcare workers. The lack of a specific regulation for professionals such as healthcare workers who perform their profession under high risk, have long working hours, are likely to be exposed to pathogens, suffer from psychological stress and extreme fatigue, have high levels of occupational exhaustion, and are likely to face occupational stigmatization is a deficiency.

There are various regulations on violence against healthcare workers in various legal regulations. Some of these basic arrangements are as follows. (Figure-3)

Figure 3. Some fundamental legislation on violence against healthcare workers



4.1.2.1. Within the scope of Additional Article 12 of the Health Services Law No. 3359

In terms of crimes against healthcare workers committed while performing their duties, healthcare workers are governed by Additional Article 12 of Health Services Law No. 3359.

“In the crimes of intentional injury (Article 86), threat (Article 106), insult (Article 125), and resisting to prevent the execution of duty (Article 265) in the Turkish Penal Code No. 5237 committed against health personnel and auxiliary health personnel working in public or private health institutions and organizations:

a) The penalties to be determined according to the relevant articles shall be increased by half.

b) The provisions on postponement of imprisonment set forth in Article 51 of the Turkish Penal Code shall not apply. Personnel working in private health institutions and organizations are regarded as public officials under Turkish Criminal Code No. 5237 for crimes committed against them in the performance of their duties.

Those suspected of committing crimes against health institutions and organization personnel while performing their duties shall be arrested by law enforcement officers and referred to the Chief Public Prosecutor’s Office after the necessary procedures are completed. The public prosecutor finalizes the judicial proceedings. During investigations of these crimes, law enforcement officers take the statements of health personnel who are complainants, victims, or witnesses at their workplaces. The provisions of this paragraph shall also apply to crimes committed against private health institutions and organizational personnel in the course of their duties.

In the health institution or organization where the violent incident took place, if there are additional healthcare professionals and auxiliary staff members capable of delivering the services previously provided by the victim to the perpetrator or their relatives, said services shall be provided by other personnel.”

4.1.2.2. Within the scope of the Law on the Amendment of the Turkish Penal Code and Certain Laws on the Prevention of Violence against Women and Healthcare Workers

The Law on the Amendment of the Turkish Penal Code and Certain Laws on the Prevention of Violence Against Women and Healthcare Workers (Official Gazette, 2022) amended Article 100/3 of the Code of Criminal Procedure No. 5271. Accordingly, a new regulation has been made regarding violence against healthcare workers, and crimes of intentional injury committed against healthcare workers during or because of their duties have been included among the catalog crimes related to arrest. This paved the way for those who are charged with violence against healthcare workers to be jailed pending trial.

Additional Article 12 of HSFL No. 3359 was amended with the 28th article of Law No. 7243 on the Amendment of the Higher Education Law and Certain Laws through the legislative technique of the omnibus bill. As stated in Article 1 of the Turkish Penal Code No. 5237, the purpose of the penal code is “to protect individual rights and liberties, public order and security, the state of law, public health and the environment, public peace, and to prevent the commission of crime...” Considering Additional Article 12 of Law No. 3359 in this respect, the severity of the penalties alone is insufficient in terms of deterrence, and the fact that threats and insults against healthcare workers may be changed to alternative sanctions and judicial fines and that deferment of the announcement of the verdict may be applied, cannot be considered sufficient in terms of preventing violence in healthcare.

4.1.2.3. Under the Decree Law No. 663 on the Organization and Duties of the Ministry of Health and Affiliated Organizations

Article 54 of Decree-Law No. 663 on the Organization and Duties of the Ministry of Health and Affiliated Institutions stipulates “Regulation on the Procedures and Principles of Legal Aid to be provided to the Personnel of the Ministry of Health due to Crimes Committed against them” regarding the regulations on legal

aid to be provided. Regarding the purpose of Article 1 of the Regulation, it is noted that if the health personnel who are victims of violence or their legal heirs do not request or do not meet the specified conditions, even if they do request, they will not receive the legal aid specified in the Regulation. Furthermore, even if the conditions specified in the regulation are met, it has been ignored that the act of violence against health workers also has a material/moral damage dimension. Legal aid is limited to the scope of the penal code. The fact that the regulation does not cover actions and lawsuits that can be filed against perpetrators of violence under the compensation law indicates that it is inadequate in this regard.

4.1.2.4. Within the scope of Circular No. 2016/3 dated 16.03.2106 on Legal Aid and the White Code Practice

Circular No. 2016/3, dated March 16, 2106, on Legal Aid and the Code of White Practice (White Code Circular), is also one of the regulations on violence against healthcare workers.

It is explained in the circular that “the measures to be taken for the safety of healthcare workers have been explained in order to ensure that healthcare workers work safely and with high motivation, and there will be no discrimination in terms of location in reporting cases due to crimes committed against personnel during the provision of health services or due to these duties, and that all cases occurring in all public or private health institutions should be reported to the address “<http://www.beyazkod.saglik.gov.tr>” or the phone number “113”.

Healthcare workers who are victims of violence can also seek their rights through the penal code and compensation law. Moreover, if healthcare workers who are civil servants are unfairly complained about or denounced without cause, they may file a lawsuit for compensation against the individuals who made the unfair complaints or denounced them to compensate for the material / moral damages they have suffered, as well as file a criminal complaint by applying to the Chief Public Prosecutor’s Office.

In crimes of violence committed against healthcare workers, the state has the obligation

to ensure the right to healthy and safe work and the obligation to protect the right to life. When necessary, the state's responsibility for compensation shall also come to the fore.

4.2. Violence in Health and Germany

4.2.1. Data on Violence against Healthcare Workers in Germany and its Patterns

Violence against healthcare workers is a global problem and is also seen in Germany. In Germany, the violence against healthcare workers is frequently associated with social violence and memorialized as such. In 1992, when refugee camps were set on fire in Rostock, the prevention of first aiders by the public from treating the wounded and those in danger was one of the most important incidents of violence against healthcare workers (Scheffler, 1995). The severity of violence against healthcare workers in Germany is less severe than in Türkiye, but it has emerged as a national issue worthy of consideration, as evidenced by the data. Public officials of the Federal Criminal Police (BKA) have announced that healthcare workers have been threatened and assaulted by opponents of the coronavirus disease, medicines, and vaccines, known as "corona deniers." Many medical associations, health insurance companies, and hospitals in Germany offer psychosocial counseling for physicians, as well as seminars and training programs on violence. It is reported that local police support physicians to protect themselves from violence, especially from patients and their relatives, and that they provide physical defense actions. Moreover, the insufficient number of personnel working in emergency services is one of the reasons for the prevalence of violence in the German health care system, particularly in emergency services (Schmitt-Sausen, 2018).

At the 125th German Doctors' Day in November 2021, European Parliament members stated in their minutes (Pühler et al., 2021) that existing regulations are insufficient to protect physicians from violence and called for an extension of violence prevention measures. They stated that their claims about the inadequacy of the measures in place were justified, particularly

during the COVID-19 pandemic, citing the fact that physicians who administered vaccines were frequently threatened, insulted, and subjected to physical violence. They stated that in some cases police protection was required. They stated that in the current situation, it is becoming increasingly difficult to develop a trusting physician-patient relationship. It has been argued that the 2020 regulation in Germany on the aggravation of criminal law sanctions in the case of violence against healthcare workers (Article 113 et seq. StGB) and the training and advice provided for physicians and medical assistants in medical chambers in the case of violence in health are beneficial but insufficient. Moreover, in the minutes of the 127th German Doctors' Day in May 2023, it was stated that violence against healthcare workers is an acute problem, and similar demands were made. In a study conducted by the Institute of Forensic Medicine at the University of Heidelberg in cooperation with the North Baden Regional Medical Association and with the support of the State Medical Association and the Baden-Württemberg State Dental Association, with the majority of participants based in Baden-Württemberg (85.7%) and North Rhine-Westphalia (6.2%), more than 1,800 questionnaires were evaluated, suggesting that the demand for an extension of violence in health measures is justified (Pühler, et al., 2023).

According to *ÄrzteMonitor* 2018 data, at least 75% of all attempted physical violence against physician assistants and their teams happens every day, regardless of gender. It was revealed that one out of every four physicians has already experienced physical violence. It was concluded that 16-17% of physical violence was inflicted on female physicians as well as male physicians (URL-3, 2018). The German Medical Association reported a significant increase in cases of violence against healthcare workers in Germany due to the COVID-19 pandemic (Osterloh, Reichardt, & Richter-Kuhlmann, 2021). The Fulda University of Applied Sciences surveyed 354 employees of 51 emergency departments in Hesse, Germany, in 2018 on incidents of psychological, physical, and sexual violence in the "GINA - Violence in the Emergency Department Survey," which

resulted in almost 76% of respondents stating that they had experienced at least one form of physical violence in the last twelve months. The figures are even higher for verbal violence. Among the respondents, 97% confirmed that they had experienced at least one form of verbal violence in the last 12 months. One out of every two people (52%) reported having experienced at least one form of sexual violence (Freudenstein-Güzel & Christiansen, 2019). The survey conducted on the prevalence rate of violence in health in 2022 with health personnel working in ambulances indicated that verbal attacks, in particular, have become a routine part of the daily work of emergency health services. On average, 29% of respondents reported being humiliated, harassed, or verbally threatened. Additionally, 8% of the participants reported being subjected to physical attacks (Leuschner, Herr, Lutz, Fecher, & Selzer, 2022). As explained, cases of violence against healthcare workers, which existed before the COVID-19 pandemic, have gradually increased after the pandemic. Anti-vaccination movements and corona deniers, which emerged especially with the COVID-19 process, have been effective in reducing the increase in violence against healthcare workers. The State Medical Associations have also recorded an increase in violence against healthcare workers. The Hessian Medical Association developed in 2019 a form for reporting violence against physicians and their teams in order to obtain data on the forms of violence used. It became the first medical association in Germany to develop such a form and publish it on its website. As of November 2021, the Hessian Medical Association had received 27 registrations on this form before the start of the pandemic and 37 after the pandemic. Most of the reports originated from medical practices. The forms revealed that aggressive behaviour was especially directed towards resident physicians. Furthermore, it was also revealed that even in cases of violence directly related to the pandemic, patients insulted and threatened healthcare workers because the waiting time was prolonged due to the high density of patients and the fact that they came without an appointment. Some patients even threatened to call the police when they had to wait for a long time. It was reported that in one case,

during a pandemic consultation, the medical secretary was subjected to violence by being pushed against the wall because the patient was not allowed to enter the consultation room. The President of the Berlin Medical Association, Dr. Peter Bobbert reported that physicians received many threatening messages and many requests for help from physicians. The Saxony-Anhalt Medical Chamber condemns violence against physicians. The Council of the Chamber of the Thuringian State Medical Association has set up a special e-mail address (Power-against-aerzte@laek-thuringen.de) for health professionals to report their experiences of violence and to contact them about the increasing aggression against health professionals in 2021. It was revealed that many of these e-mails were sent by physicians who had received threatening messages about the coronavirus vaccine. The Thuringian Medical Chamber reported that criminal complaints have been filed and investigations are still ongoing in most of the cases (Osterloh, Reichardt, & Richter-Kuhlmann, 2021).

4.2.2. Legal Status and Sanctions in Violence against Healthcare Workers in Germany

4.2.2.1. Under the German Criminal Code (StGB)

Amendments adopted in 2017 to the German Criminal Code (StGB) criminalize the prevention by force or threat of force of the intervention of first aiders in accidents, general danger, or distress. Although physicians and other health care workers who arrive at the scene of the incident are also included within the scope of first aid workers, the German legislator did not include physicians and other health care workers in emergency services within the scope of the second newly regulated offense, as in the offense of obstruction of rendering assistance (StGB § 323c/2). The reason for this is that, as can be clearly seen in the incidents reported in the German media, obstruction of healthcare workers is mostly seen in external interventions. This occurs not only in accidents but also in social incidents when crowds prevent first aid teams from performing their duties. The German legislator has regulated this provision in connection with the offense of resisting an

officer in the performance of his duty (StGB 113 §). In fact, in these cases, as in cases where assistance cannot be rendered by obstructive behaviour, it is intended to protect the personal rights of victims or patients and, relatedly, the public interest in the provision of health care. Although it is generally accepted that criminal laws do not provide special protection for certain professions, there is a view that the qualified danger to personal rights in the case of first aid justifies the protection of healthcare workers by this means. A further amendment to the German Criminal Code (StGB) in 2017, § 115/3, reveals that this offense does not cover all forms of first aid, but only some of them and only first aid workers, i.e., it does not protect healthcare workers working in emergency services. The reason behind this, as explained above, is the German legislator's belief that the fulfilment of the duties of healthcare workers is more difficult in their external activities. The offense of assault under StGB § 115 § 3 sentence 2 can also be committed by the patient who is receiving first aid. In this regard, we could argue that the German legislator has found a solution to patient violence against healthcare workers during first aid through the criminal law. It is observed that the institutional status of the healthcare worker providing first aid intervention is insignificant. Although it is generally accepted that criminal laws do not provide special protection for certain professions, there is a view that the qualified danger to personal rights in the case of first aid justifies the protection of healthcare workers by this means. Another justification for protecting the existence of such a public interest is the idea that health officials actually provide social solidarity in such situations by institutionally helping people in distress. Obstruction of first aid workers or emergency service workers who help or want to help others in accidents, general danger, or difficult situations (judicial fine or imprisonment of up to one year: The German Criminal Code (StGB) 323c "Offense of refusal of assistance" criminalizes obstruction by force or threat of force (punishable by a fine or up to three years' imprisonment: § 115/3 and 113/1 of the German Criminal Code (StGB) or actual assault against such persons (imprisonment from three months to five years: StGB § 115/3). §115/3 StGB

provides a qualification for the aforementioned offenses if committed with more than one person or with an armed or dangerous weapon (StGB § 115/3, 114/2 and 113/2). The attempt to commit these offenses is not punishable under German law, as they do not constitute an offense (Verbrechen) and are not separately regulated in the law. It should be noted that the scope of attempts that do not constitute an offense can only be determined after determining the elements of the offense. However, it is possible to attempt the offenses of wounding (§ 223/2 of the German Criminal Code (StGB)), deprivation of liberty (§ 239/2 of the StGB), force (coercion) (§ 240/3), which can often be committed in an intellectual combination, even if the attempt is unfavourable. The draft law on combating right-wing extremism and hate offenses adopted by the German cabinet on February 19, 2020, includes a special provision on violence against healthcare workers. Within the scope of this amendment, a special protection under criminal law has been introduced against violence against healthcare workers working in emergency health services and emergency services and is included in the scope of Article 113 et seq. of the German Criminal Code (StGB). The German Federal Government characterizes this amendment as a response to the increasing violence against healthcare workers. Thus, the provisions of Article 113 et seq. of the German Criminal Code (StGB - Strafgesetzbuch) titled "Resisting an Officer in the Performance of Duty" have started to be applied to healthcare workers. Paragraph 1 of the Law: "Whoever resists or assaults by force or threat of force a public official or a soldier of the Bundeswehr authorized to execute or enforce laws, regulations, court judgments, and decisions or orders, or a soldier of the Bundeswehr during the execution of such an order, shall be punished by imprisonment of up to three years or by a judicial fine." The following paragraph states that in very severe cases, the penalty is imprisonment for six months to five years or a judicial fine. Medical emergency services, or emergency service assistants, were integrated into the law on April 3, 2021. In conclusion, it is concluded that not all acts of violence committed by patients, relatives, or third parties against healthcare workers are protected under criminal

law under the regulations in the German Criminal Law, and that the types of offenses added to the Law in 2017 are limited to being applied only in the event that they are committed against a certain group of healthcare workers, in order to comply with the principle of the ultima ratio as much as possible. Nevertheless, as mentioned, obstruction and actual assault behaviours are amendments that expand the scope of criminal responsibility. However, although the scope has been expanded, most of such behaviours may be those that healthcare workers do not consider significant and do not report, as stated in studies and reports.

4.2.2.2. Under the German Civil Code (Bürgerliches Gesetzbuch - BGB)

The German Civil Code (Bürgerliches Gesetzbuch - BGB) § 823 - 853 regulates liability for damages arising from tortious acts. German tort law recognizes the compensatory purpose.

BGB § 823 establishes that *“anyone who intentionally or negligently unlawfully infringes the life, body, health, liberty, property, or any other right of another person shall be liable to that person for the damage caused thereby.”* Pursuant to BGB §249 (1) *“Type and Scope of Compensation,” “the indemnitee is obliged to compensate the injured party for the full amount of the damage suffered and to restore the injured party to the condition in which he would have been had the event giving rise to the obligation to compensate not occurred.”* The acceptance of the compensatory purpose is described in the preamble to BGB §249 in the sense that the determination of private law consequences must not be based on moral or criminal law considerations, that the scope of the damage determines the scope of the compensation, and that this is fair to the person entitled to compensation.

In accordance with BGB § 199 /2, *“Claims for damages for violations of the right to life, bodily integrity, health, and liberty are time-barred 30 years from the date of the “commission of the tort” (Begehung der Handlung), the “breach of obligation” (der Pflichtverletzung) or any other event that caused the damage, irrespective of when the claim arose and regardless of the*

criteria of knowing/should have known. In such cases, the compensation periods pursuant to BGB § 199 /3 are subject to statute of limitations. The German Civil Code meticulously differentiates between “the occurrence of the right to claim” and “the occurrence of the tortious act or other event giving rise to liability” at the commencement of the statute of limitations.

5. DISCUSSION - COMPARISON OF VIOLENCE AGAINST HEALTHCARE WORKERS IN GERMANY AND TÜRKİYE

Protection is provided in terms of criminal law in terms of the offenses of intentional killing, intentional injury, deprivation of liberty, force, threat, and insult committed by patients, their relatives, or third parties against healthcare workers in the course of their duties or due to their duties. Violence is one of the most prominent problems faced by healthcare workers.

Due to the recent increase in violence against healthcare workers, both countries have tried to prevent this issue through legislative amendments, but in fact, these amendments are merely populist in nature. In fact, as the famous criminal jurist Beccaria stated in his work *“On Crimes and Punishments,” “one of the most effective brakes preventing criminal offenses is not the severity of the penalties, but the inevitability of the penalties.”* The sentences need to be deterrents. However, more crucially, it is the execution of the sentences that is essential. Declines in confidence in the execution of sentences also reduce their deterrence.

Both the inclusion of the offense of intentional injury committed against personnel working in health institutions and organizations during or because of their duties in Türkiye in 2022 among the catalogue offenses for which arrest is presumed civil under the Criminal Procedure Law No. 5271, and the introduction of a special protection under criminal law against violence against healthcare professionals working in emergency health services and emergency services within the scope of Article 113 et seq. of the German Criminal Code (StGB) in 2020, which provides for more severe criminal sanctions

in case of resistance to law enforcement and execution officers under the title of “Resisting an Officer in the Performance of Duty” are essentially interventions made to the law in order to satisfy the public, which is incompatible with the principle of equality, which is one of the fundamental principles of law.

Violence against healthcare workers in Germany is treated with vocational training at medical chambers, but not in Türkiye.

Whereas in Türkiye, there are more cases of violence in healthcare resulting from communication problems, which are reported after the intervention of the physician and result in serious injuries. Violence against physicians in Germany is more often manifested in the form of preventing the physician from intervening. Indeed, in order to protect healthcare workers more effectively in Türkiye, the “white code” application was introduced in 2012, and an application called “TTB Yanımnda” was developed to increase solidarity among physicians on violence in health.

The incidence of violence in health is high in both countries, especially in emergency services. Germany provides training at medical chambers on how to approach patients in such circumstances. However, there is currently no similar practice in Türkiye, and in cases of violence in the healthcare sector, healthcare workers are assisted in defending or protecting themselves. We advocate that emergency services in both countries should be staffed by a psychologist-like employee specially trained to calm patients and their relatives.

Both countries have demands from physicians for harsher penalties for violence in healthcare. However, it is worth noting that the absolute imposition of a lighter penalty is a greater deterrent than the non-imposition of a heavier penalty. Therefore, in terms of deterrent penalties, it must be stated that absoluteness rather than gravity is at the forefront. Harsher penalties do not produce the hoped-for results in terms of deterrence. The major instrument of deterrence in the classical deterrence approach is the existence of punishments that are swift,

sufficiently severe and applied to everyone without exception. Under this approach, punishments would serve as a threat and an example for both potential and actual offenders.

6. CONCLUSION

Violence against healthcare workers remains an ongoing problem today. It is evident that violence against healthcare workers who neglect their own lives in order to save the lives of others when necessary, who make many sacrifices in order to save human lives, and who, despite their heavy responsibilities and working pace, must be prevented immediately in order to perform their duties properly. Although violence against healthcare workers is such an urgent issue, it is deemed that the regulations in Turkish Law are not sufficient in terms of preventing violence. Although the legislature in Türkiye has included regulations on patients’ rights, instead of making a separate law on the rights of healthcare workers or a regulation in the Turkish Penal Code, the legislature has regulated the rights of healthcare workers through the “omnibus law” legislative technique in a way that does not coincide with the gravity of the issue. The deficiencies in this regard should be eliminated, and regulations must be made in accordance with the rules of law by making regulations that will be in line with the modern state understanding in Türkiye.

- In preventing violence against healthcare workers, it is thought that it is crucial to provide training on how to confront patients, relatives, and third parties who are prone to violence within the body of medical chambers, as in Germany, to provide training to healthcare workers by law enforcement agencies so that they can physically defend themselves in case of violence, and to structure the physical infrastructure in healthcare institutions and organizations in a way to ensure security.
- Providing a safe working environment and enabling health workers to perform their work properly without demotivation,
- Reducing the patient density in health institutions and organizations and ensuring the employment of more healthcare professionals for this purpose

- Ensuring security by installing X-Ray devices at the entrances of healthcare institutions and organizations,

- The legal regulations that we have outlined in order to protect healthcare workers from violence and its effects must be effectively enforced, and alternative sanctions, judicial fines, and HAGB (Deferment of the Announcement of the Verdict) must be abolished in terms of crimes committed against healthcare workers during or because of their duties.

Finally, it is argued that the implementation of the penalties rather than the aggravation of the penalties for violence against healthcare workers is essential for real deterrence.

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