

# Division of offences carried out on human corpses due to their statutory object of protection

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## **Abstract**

*The purpose of the article is to demonstrate the lack of uniformity in determining the subject of protection of crimes performed on human corpses or their resting place. The conclusions were drawn from the analysis of 48 penal codes, including 15 European, 12 Asian, 9 African and 11 American. It has been shown that the investigated offenses do not constitute a homogeneous group due to the statutory object of protection. An attempt was also made to answer the question whether non-legal factors, such as religion, social development, economic development or the level of democratization in selected countries have an impact on the definition of the object of protection of given crimes.*

**Keywords:** desecration, deceased, corpse, criminal law.

**JEL Classification:** K14, K19

## **1. Introduction**

Offenses which object of caring out is human corpses or their resting place are not perceived today as behaviors that threaten universal security<sup>2</sup>. They are also committed relatively rarely on a global scale<sup>3</sup>. They often coincide with serious crimes such as genocide, as well as are related to previously committed offenses, e.g. hiding the corpse of a murder victim<sup>4</sup>. This is probably one of the reasons for their lack of popularity. Aesthetic considerations appear to be another reason for the low interest in these crimes. Yet another factor in overlooking particular crimes in doctrinal discourse is the multi-faceted and complexity of their object of protection. Nevertheless, to this day there are many profoundly interesting dogmatic problems of how to qualify them. The basic problem is what determine the object of protection of crimes. No consensus has been reached at present regarding the answer to the question whether religious feelings are violated, or perhaps solely the deceased, or perhaps public order, are violated when human corpses are not buried. Moreover, it is worth noting that crimes carried out on

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<sup>2</sup> <http://www.sprawy-generalne.brpo.gov.pl/pdf/2010/06/649645/1629495.pdf> (access on 30.06.2019).

<sup>3</sup> [https://blogs.findlaw.com/legally\\_weird/2017/02/what-are-the-penalties-for-desecrating-the-dead.html](https://blogs.findlaw.com/legally_weird/2017/02/what-are-the-penalties-for-desecrating-the-dead.html); [www.cambridge.org/core/journals/legal-studies/article/grave-offence-corpse-desecration-and-the-criminal-law/93A9757B7B1701D956D9609B2FC5C0F9](http://www.cambridge.org/core/journals/legal-studies/article/grave-offence-corpse-desecration-and-the-criminal-law/93A9757B7B1701D956D9609B2FC5C0F9) (access on 30.06.2019).

<sup>4</sup> [https://s3.amazonaws.com/files.peacecorps.gov/documents/open-government/2016\\_Statistical\\_Report\\_of\\_Crimes\\_Against\\_Volunteers.pdf](https://s3.amazonaws.com/files.peacecorps.gov/documents/open-government/2016_Statistical_Report_of_Crimes_Against_Volunteers.pdf) (access on 30.06.2019); [https://www.unodc.org/documents/data-and-analysis/Crime-statistics/International\\_Statistics\\_on\\_Crime\\_and\\_Justice.pdf](https://www.unodc.org/documents/data-and-analysis/Crime-statistics/International_Statistics_on_Crime_and_Justice.pdf) (access on 30.06.2019).

human corpses or their resting place can simultaneously, and often be, directed against various goods, e.g. administrative regulations or medical circulation, as well as property. The very definition of executive action is also problematic. Some legislators define them in a synthetic way, e.g. who insults, who violates, who destroys, while others enumerate individual actions, e.g. who removes corpses from the grave, destroys their integrity, moves them to a prohibited place, etc.

Below is presented a comparative study based on the analyses of regulations of crime directed against human corpses in regulations, including 15 European (Albania, Austria, Croatia, Denmark, Finland, France, Spain, the Netherlands, Iceland, Lithuania, Germany, Poland, Russia, Switzerland, Sweden), 12 Asian (Afghanistan, Armenia, Azerbaijan, Bahrain, Bangladesh, Bhutan, China, India, Japan, Cambodia, South Korea, Sri Lanka), 9 African (Algeria, England, Botswana, Democratic Republic of the Congo, Central African Republic, Rwanda, Somalia, Uganda, Zambia) and 11 American (Belize, Brazil, Chile, Ecuador, Cuba, Mexico, Nicaragua, Paraguay, Uruguay, USA (Florida), Venezuela). The purpose of this extensive analysis was to highlight that crimes carried out on human corpses or their resting place do not constitute a homogeneous group of crimes, what prove that violation of the object of enforcement action involves the violation of many legally protected goods. The issue of determining what constitutes the object of protection of a given crime in general is not possible only through the prism of its statutory object of protection, but requires reference to external factors such as religion, social development or geographical location, which was taken into consideration. It was examined whether factors such as religion, constitution, historical and cultural conditions, geographical location, social system (social development) and wealth of the society influence the determination of the subject of the investigated crimes.

## **2. Division of the crime of profaning a corpse**

Offenses which object of enforcement activities are human corpses or their resting place do not constitute a homogeneous group. Due to the subject of data protection (both main and secondary), they can be divided into the following groups:

1. crimes against the honor and corporal integrity of corpses,
2. crimes against resting place,
3. offenses of the seizure of property from a corpse or resting place,
4. sexual crimes,
5. medical crimes,
6. religious crimes,
7. criminal offenses;
8. administrative offenses.

### 3. Offenses against corpses or integrity of human corpse<sup>5</sup>

The corpse is the *corpus mechanicus* of the deceased. They also have personal rights that are subject to legal protection, as long as this does not conflict with the essence of these goods or violate specific provisions. Since it is postulated to abolish the verb phrase "insults", it should be assumed that the protection of honor and corporal integrity is carried out by penalizing defamation and violation of bodily inviolability. The instance of defamation regarding the protection of the honor of deceased persons was discussed earlier. By violating the corporeal integrity of a corpse is meant any behavior performed on human corpse which violates their honor in an objective perspective. It also seems reasonable to introduce here a qualified type and types of offenses specifying behavior directed against corpses, but not necessarily against the honor of deceased persons, such as their unlawful extraction.

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<sup>5</sup> E.g. **Japanese regulation:** art 190 of Penal Code (*A person who damages, abandons or unlawfully possesses a corpse, the ashes or hair of a dead person, or an object placed in a coffin shall be punished by imprisonment with work for not more than 3 years*), <http://www.japaneselawtranslation.go.jp/law/detail/?id=1960&vm=04&re=02>, <http://www.cas.go.jp/jp/seisaku/hourei/data/PC.pdf> (access on 28.04.2019). Author's translation; **Floridian regulations:** (sec. 872 of Florida Code (fragments) *Injuring or removing tomb or monument; disturbing contents of grave or tomb; penalties. (1) A person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if he or she: (a) Willfully and knowingly destroys, mutilates, defaces, injures, or removes any tomb, monument, gravestone, burial mound, earthen or shell monument containing human skeletal remains or associated burial artifacts, or other structure or thing placed or designed for a memorial of the dead, or any fence, railing, curb, or other thing intended for the protection or ornamentation of any tomb, monument, gravestone, burial mound, earthen or shell monument containing human skeletal remains or associated burial artifacts, or other structure before mentioned, or for any enclosure for the burial of the dead; or (b) Willfully destroys, mutilates, removes, cuts, breaks, or injures any tree, shrub, or plant placed or being within any such enclosure, except for a person performing routine maintenance and upkeep. (2) A person who willfully and knowingly excavates, exposes, moves, removes, or otherwise disturbs the contents of a grave or tomb commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084*), <https://www.flsenate.gov/Laws/Statutes/2018/Chapter872/All>, (access 16.06.2019).

#### 4. Offenses against resting place and seizure of corpse or resting place<sup>6</sup>

Crimes against the resting place of deceased persons are in principle subject to the same protection as human corpses. Their violation may be regarded as a violation of honor of the deceased, but not always. In many regulations, crimes performed at the grave or other resting place of deceased people are treated as crimes against property. This solution should be considered right. A person who steals from a grave, although indirectly shows disrespect to the person who was buried in it, his behavior is not intended to violate the honor of the deceased person. It is also problematic to specify the concept of hornbeam resting place. As a rule, it is indicated that this is the place where the corpse was laid. Doubt arises in the case of symbolic graves (when there is no body, e.g. in the event of a death declaration). The Supreme Court of Poland indirectly recognized that such symbolic graves should be treated equally with "normal" graves, stating that burial of a strand of hair is a funeral and is entitled to a funeral grant<sup>7</sup>. In addition, there may be many coincidences, e.g. when the grave is a monument or other public place arranged to commemorate a historical event or commemorate a person. It should be noted that the concept of a monument does not contain a legal definition in the Polish legal order. Therefore, it should be assumed that a monument can also be a properly crafted human corpse. It should also be noted that a public place arranged to commemorate a historical event or to commemorate a person may also be a place intended for public performance of religious rites<sup>8</sup>. Then his insults should be qualified as carrying the signs of a violation of religious feelings, a

<sup>6</sup> E.g. **Angolan regulation**, art 206 (*Who, by subtraction, concealment, destruction, desecration or any other offensive means of respecting the dead, infringes upon the integrity of the dead person's corpse or ashes is punishable by up to 2 years imprisonment or a fine*), <https://wipolex.wipo.int/en/text/490243>, (access on 4.28.2019). Author's translation; **Venezuelan regulation**, art. 172,173 (*Article 172. Anyone who commits acts of desecration in the body or ashes of a person, and anyone who with an injurious, or simply illicit, purposeful, fraudulently, all or part of the spoils or remains themselves, or of any Violent way a tumulus or a cineraria, will be punished with prison from six months to three years. Article 173. Anyone who, out of the aforementioned cases, desecrates, in whole or in part, the body of any person, exhires, captures or seizes their remains, will be punished with imprisonment for three to fifteen months. If the act was committed by the administrator or guardian of a cemetery or burial site, or by a person entrusted with guarding the body or remains, the penalty shall be increased by a third in the first case, and in a quarter in the second*), <https://wipolex.wipo.int/en/text/235415>, (access on 30.06.2019). Author's translation; **Hungarian regulation, sec. 371 (fragments)** (*'Vandalism' shall mean causing damage by injury to or destruction of, the property of others.*(3) *The penalty for a felony shall be imprisonment not exceeding three years if: the act of vandalism results in the destruction or, religious objects or consecrated buildings or objects used for religious rights, (or) graves, burial sites or objects placed in memory of or with, the dead, in cemeteries and other burial sites*), [https://www.legislationline.org/download/id/5619/file/HUNGARY\\_Criminal\\_Code\\_of\\_2012\\_en.pdf](https://www.legislationline.org/download/id/5619/file/HUNGARY_Criminal_Code_of_2012_en.pdf) (access on 20.09.2018).

<sup>7</sup> Resolution of SC from 2<sup>nd</sup> February, 2011 (reference number I PPO 5/10). Differently: P. Majer, *Pogrzeb symboliczny po donacji zwłok na cele naukowe – aspekty prawnokanoniczne*, [in:] *Annales Canonici*, 12 (2016), p. 101.

<sup>8</sup> <http://www.krakow.po.gov.pl/decyzja-prokuratury-dot.-wystawy-the-human-body-exhibition.html>, (access on 30.08.2018).

monument, and a grave. A similar situation occurs when the resting place is a monument according to art. 6 of the Polish Act on the protection of monuments and care for monuments from 23<sup>rd</sup> of July 2003<sup>9</sup>. Therefore, it should be postulated that the current crime of looting a corpse or a grave be found among crimes against property. The work, however, refers to the protection of deceased people, not their resting place, which is why a detailed discussion of the indicated issues, as well as an analysis of the regulation of criminal behavior against the resting places of the dead is omitted.

### 5. Sexual offenses<sup>10</sup>

In the doctrine, it is doubtful whether sexual intercourse or other sexual activity with human corpse constitutes a violation of their worship. Some authors consider the necrophilic relationship to be rape<sup>11</sup>. Others, in turn, are in favor of recognizing necrophilia as insulting a corpse<sup>12</sup>. It is impossible to agree with the first group of authors. The crime of rape refers only to living persons who can express their will externally. If at all the necrophilia is considered to be a rape, then the qualification from art. 198 of the Polish Criminal Code. However, it seems that the necrophilia should be treated as a crime directed against the dignity of the deceased person and not their sexual freedom. M. Berent<sup>13</sup> rightly emphasizes that the current legal regulation does not clearly determine how and whether to classify necrophilia as a crime at all. There is also a controversial issue of placing the

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<sup>9</sup> Dz. U. 2003 nr 162 poz. 1568.

<sup>10</sup> E.g. **Floridian regulation, sec. 872.06 of Florida Code** (*A person who mutilates, commits sexual abuse upon, or otherwise grossly abuses a dead human body commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any act done for a bona fide medical purpose or for any other lawful purpose does not under any circumstance constitute a violation of this section*); **Mexican regulation, art. 281 of Criminal Code** (*One to five years' imprisonment shall be imposed: I.-To the one who violates a tumulus, a grave, a grave or coffin, and II.-To the one who desecrates a corpse or human remains with acts of vilification, mutilation, brutality or necrophilia. If the acts of necrophilia consist in the conduct of intercourse, the prison sentence will be four to eight*), <https://wipolex.wipo.int/en/text/199697>, (access on 30.06.2019). Author's translation.

<sup>11</sup> More: J. Warylewski, A. Wąsek (red.), *Kodeks karny. Komentarz*, Tom II, Warsaw 2004, p. 831, J. Warylewski, *Zgwałcenie- zagadnienia definicyjne*, [in:] L. Mazowiecka (red.) *Zgwałcenie. Definicja, reakcja, wsparcie dla ofiar*, Wolters Kluwer, Warsaw 2016, p. 23, B. Kurzępa, *Inna czynność seksualna jako znamię przestępstw*, [in:] *Prokuratura i Prawo*, 2005, nr 5, p. 67.

<sup>12</sup> See: A. Zoll, *Komentarz do art. 197 kodeksu karnego*, [in:] A. Zoll (red.), *Kodeks karny. Część szczególna. Tom II. Komentarz do art. 117-277 k.k.*, LEX, 2013, nr 172405; M. Budyn-Kulik, *Umysłność w prawie karnym i psychologii. Teoria i praktyka*, Wolters Kluwer, Warsaw 2015, pp. 446-447.

<sup>13</sup> M. Bernet, *O wątpliwych podstawach karalności tzw. nekrofilii właściwej w Polsce. Zarys stanowiska własnego na tle art. 262 k.k.*, [in:] M. H. Kowalczyk, A. Kinas-Zalewska (red.), *Zbrodnia, kara, nadzieja. Wybrane niektóre rodzaje przestępstw, ich aspekty prawne i resocjalizacyjne*, Black Unicorn, Jastrzębie Zdrój 2012, pp. 105-116.

corpses of the deceased in the urns that also serve as vibrators<sup>14</sup>. Therefore, a *de lege ferenda* postulate should be made to recognize the necrophilic relationship as a special type of the crime of desecration of corpses, such as made in the United Kingdom in the Sexual Offences Act of 2003 in sec. 70<sup>15</sup>. To date, it seems reasonable for the Supreme Court to adopt a resolution clearly defining the criminal law status of a necrophilic relationship.

When considering necrophilic behavior as punishable, it should be borne in mind that this is an interference with the sphere of sexual freedom of the individual. The legal violation of the freedom of human action in the matter of necrophilia is justified not only by ethical and moral issues<sup>16</sup>, but also by medical ones. As indicated by S. Pegg and A. Davies<sup>17</sup>, people with necrophilic tendencies have an increased level of libido, i.e. greater sexual needs. This can lead to behavior aimed at acquiring the subject of erotic fantasies (corpses) and then engaging in sexual activities on them. In this case, it can be seen that the criminalization of necrophilia seems to be justified. On the other hand, it should be borne in mind that people with necrophilic tendencies suffer from sexual preference disorders, and therefore are sick and therefore insane<sup>18</sup>, i.e. they do not commit a prohibited act. Necrophilic behavior in the analyzed regulations is punished only in two countries: Mexico and Florida.

## 6. Medical offenses<sup>19</sup>

Medical crimes performed on human corpses include a number of activities related to collection, storage, transport, etc. cells, tissues, organs and even parts of the human body. Trafficking in human organs is becoming a growing threat to life and health in Europe<sup>20</sup>. They include any activities related to the organization of the market for human organs, including: brokering, storage, transport, procurement, protection of human organs, etc. In the Polish regulation, a detailed specification of the features of such offenses is provided in the Act on the collection, storage and transplantation of cells, tissues and organs from 1<sup>st</sup> of July 2005<sup>21</sup>. It cannot be

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<sup>14</sup> [http://www.se.pl/wiadomosci/swiat/kontrowersyjne-prochy-zmarlego-w-dildo\\_874954.html](http://www.se.pl/wiadomosci/swiat/kontrowersyjne-prochy-zmarlego-w-dildo_874954.html), (access on 30. 08. 2018).

<sup>15</sup> [http://www.legislation.gov.uk/ukpga/2003/42/pdfs/ukpga\\_20030042\\_en.pdf](http://www.legislation.gov.uk/ukpga/2003/42/pdfs/ukpga_20030042_en.pdf), (access on 30. 08. 2018).

<sup>16</sup> A. Aggraval, *Necrophilia, Forensic and Medico-legal aspects*, CRS Press, Boca Raton 2011, p. 195.

<sup>17</sup> S. Pegg, A. Davies, *Sexual offences law and context*, Routledge, New York 2016, pp. 129-130.

<sup>18</sup> *Ibidem*, p. 12.

<sup>19</sup> E.g. **Rwandan regulation**, art. 271 of Criminal Code (*Any person who removes an human organ or some of the body products from a dead person without his/her consent during his/her lifetime or if that removal prevents the determination of cause of death shall be liable to a term of imprisonment of one (1) year to five (5) years and a fine of one million (1,000,000) to three million (3,000,000) rwandan francs*), [https://sherloc.unodc.org/res/cld/document/rwa/1999/penal-code-of-rwanda\\_html/Penal\\_Code\\_of\\_Rwanda.pdf](https://sherloc.unodc.org/res/cld/document/rwa/1999/penal-code-of-rwanda_html/Penal_Code_of_Rwanda.pdf), (access on 30. 08. 2018);

<sup>20</sup> [http://www.europarl.europa.eu/RegData/etudes/STUD/2015/549055/EXPO\\_STU%282015%29549055\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/549055/EXPO_STU%282015%29549055_EN.pdf), (access on 28.04. 2019).

<sup>21</sup> Dz. U. 2005 nr 169 poz. 1411.

assumed that any unlawful removal of cells, tissues or organs from the body of a deceased person constitutes a violation of their worship, as in the case of a living person. The manner in which the offender handles the body is irrelevant. In the case of collecting cells, tissues or organs from corpses, they must be handled in a special way, with rules that minimize the risk of damage to the cells, tissues or organs harvested. This may raise doubts as to whether the violation of such special rules of conduct is a violation of the honor of the deceased, although it can not be completely ruled out.

### 7. Religious offenses<sup>22</sup>

If the violation of a place intended for public performance of religious rites that are also the resting place of the deceased (e.g. cemetery, chapel, church) is public in nature and is directed at offending the religious feelings of other people, there is a confluence of offenses against the honor of the deceased and against religion or religious feelings. However, it should be remembered that in such a case two goods must be violated: honor of the deceased and religious feelings of the living. The perpetrator's behavior must therefore be externalized in such a way that it is possible to identify the deceased whose part is violated by committing behavior not directed directly against the corpse. The relationship between crimes against religion and the honor of deceased persons is historical in nature and results from the circumstances of the emergence of the latter. Death for many centuries, and even today, remains an unexplained phenomenon. Therefore, in the early stages of social development, religion dealt with its explanation.

### 8. Offences on trial background (Procedural offences)<sup>23</sup>

Procedural offenses include behaviors that impede conducting these proceedings, in particular by hiding or getting rid of the corpse. It is problematic to determine whether hiding a corpse or, for example, burning it is per se a violation of honor of a deceased person. There seems to be no such relationship, which does

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<sup>22</sup> E.g. **Bangladeshi regulation**, art. 297 of Criminal Code (*Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or on any place of sepulture, or any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both*), <https://www.oecd.org/site/adboecdanti-corruptioninitiative/46812525.pdf>, (access on 29.10.2019).

<sup>23</sup> E.g. **Algerian regulation**, art. 154 of Criminal Code (*Anyone who conceals or removes a corpse is punished by imprisonment from six (6) months to three (3) years and a fine of five hundred (500) to 1,000 (1,000) AD. If, to the knowledge of the receiver, the body is that of a person who is the victim of a homicide or who has died as a result of assault and battery, the penalty is imprisonment for two (2) to five (5) years and the fine of five hundred (500) to five thousand (5,000) AD*), <https://wipolex.wipo.int/en/text/228301> (access on 26.10.2019). Author's translation.

not, however, exclude such admissibility. In many regulations this crime is distinguished as an independent type of crime. This solution, it seems, avoids the problem of criminal qualifications of this type of behavior, without excluding the possibility of conviction of the perpetrator for violation of the honor or bodily integrity of the deceased. It should be noted here that the perpetrator's behavior must be covered by awareness of *contra legem* activity, which does not exclude the intention of a possible offender. Otherwise, the perpetrator's behavior should be qualified as violating the provisions on burial or exhumation, i.e. administrative and legal provisions.

### 9. Administrative offenses<sup>24</sup>

Offenses carried out on corpses that violate administrative and legal regulations are behaviors that are inconsistent with the provisions governing such matters as reporting death, conducting a burial without prior notification of death, conducting a burial/exhumation in a manner inconsistent with legal requirements. These behaviors in Polish regulation are regulated by separate legal acts (Act on cemeteries and burial of the deceased from 31<sup>st</sup> of January 1959<sup>25</sup>; Regulation of the Minister of Health on handling corpses and human remains from 7<sup>th</sup> of December 2001<sup>26</sup>; Regulation of the Minister of Health on the method of storing corpses and remains from 23<sup>rd</sup> of March 2011<sup>27</sup>). There is no doubt that the mere violation of these provisions will not in any case be a behavior that violates the honor of the deceased person or their physical integrity in a shameful, if at all. One can imagine a situation in which the perpetrator violating the said provisions does so just to honor the deceased person against the violation.

### 10. Analysis in terms of the object of protection of the crime of desecration of corpses

The analysis included only crimes against corpses violating some of the deceased in the strict sense. Among the regulations examined, 14 different terms of protection were identified: **public order** (Armenia, Belize, Chile, China, Croatia, Ecuador, Finland, the Netherlands, Iceland, Peru, Poland, Rwanda, Switzerland,

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<sup>24</sup> E.g. **Chilean regulation**, art. 2320-322 of Criminal Code (*Art. 320. The one who will practice or make practice a burial in contravention of the provisions of the laws or regulations regarding the time, place and other formalities prescribed for the burials, will incur the penalties of minor imprisonment in its minimum degree and fine of six to Ten monthly tax units. Art. 321. Anyone who violates the graves or graves by practicing any act that tends to disrespect due to the memory of the dead, will be sentenced to minor detention in its middle degree and a fine of six to ten monthly tax units. Art. 322. Anyone who exhumes or transfers human remains in violation of regulations and other sanitary provisions, will suffer the minimum prison sentences to a minimum extent and a fine of six to ten monthly tax units*), <https://wipolex.wipo.int/en/text/489565>, (access on 4/28/2019). Author's translation.

<sup>25</sup> Dz. U. 1959 nr 11 poz. 62.

<sup>26</sup> Dz. U. 2001 nr 153 poz. 1783.

<sup>27</sup> Dz. U. 2011 nr 75 poz. 405.

Sweden, Zambia), **public health** (Cuba, Russia), **morality/morals** (Albania, Armenia, Azerbaijan, Russia), **dignity** (Albania, France), **religion** (Austria, Bahrain, Bangladesh, Botswana, India, South Korea, Germany, Nicaragua, Sri Lanka, Uganda), **religious feelings** (Brazil, Spain, Uganda), **freedom of religion** (Spain, Uruguay, Venezuela), **respect for the dead** (Algeria, Angola, Brazil, Spain, Cambodia, Somalia), **peace of the dead** (Afghanistan, Austria, Paraguay), **memory of the dead** (Lithuania), **corpses and graves** (Japan, USA), **family** (Bahrain), **others** (Belize), **burial and exhumation regulations** (Chile, Mexico, Nicaragua, Rep. of Africa), **combat superstition** (Democratic Republic of Congo, Central African Republic). The most common statutory, generic subject of protection was public order (in 15 countries), followed by religion and religious feelings (in 13 countries), respect for the dead/peace of the dead/memory of the dead (in 10 countries), morality/morals (in 4 countries), burial and exhumation regulations (in 4 countries), the others were included in no more than two regulations.

Then the objects of protection were sorted according to the purpose of their protection into three groups: related to religion (religion, religious feelings, respect for the dead, memory of the dead, fight with superstition), with the protection of the **individual interest** (dignity, family, freedom of religion, corpse and graves), and with protection of the **public interest** (public order, morality/morals, corpses and graves, others, burial and exhumation regulations). The correlation coefficient of r-pearson and Spearman rank between: occurring type of object of protection (1 - occurs, 0 - does not occur) and indicators of human development (HDI)<sup>28</sup>, degree of democratization (Democracy Index)<sup>29</sup>, GDP per capita<sup>30</sup> and significance of religion (Importance of Religion Index)<sup>31</sup>. The conclusions of the analysis are as follows: the higher the religion significance index, the more often religion is object of protection of the crime of desecration of corpses; the higher the level of significance of religion, the protection of the public interest is weakened, while the protection of the individual interest of the individual is weakened too; the greater the degree of social development and the degree of democratization, the less frequently the object of protection of profanation is corpse; the greater the degree of social development and the degree of democratization, the stronger the emphasis is placed on protecting the private interest of the individual, and the protection of public interest is weakening; the wealthier the country, the more private interest is protected and the protection of religion is significantly weakened, and the protection of public interest is slightly weakened. The analysis showed the relationship between determining the object of protection of the crime of

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<sup>28</sup> Source: [http://hdr.undp.org/sites/default/files/2018\\_human\\_development\\_statistical\\_update.pdf](http://hdr.undp.org/sites/default/files/2018_human_development_statistical_update.pdf), (access on 30.06.2019).

<sup>29</sup> Source: [https://www.eiu.com/Handlers/WhitepaperHandler.ashx?fi=Democracy\\_Index\\_2018.pdf&mode=wp&campaignid=Democracy2018](https://www.eiu.com/Handlers/WhitepaperHandler.ashx?fi=Democracy_Index_2018.pdf&mode=wp&campaignid=Democracy2018), (access on 30.06.2019).

<sup>30</sup> Source: <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2004rank.html>, (access on 30.06.2019).

<sup>31</sup> Source: <https://news.gallup.com/poll/142727/religiosity-highest-world-poorest-nations.aspx>, (access on 30.06.2019).

desecration of corpses and religion, social development, the state system and the wealth of society.

## 11. Conclusions

Offenses carried out on corpses or their resting place do not constitute a homogeneous group due to their statutory subject of protection. By violating the corpse or their resting place, as a rule, more than one legally protected good is violated. The definition of the subject of protection is influenced by non-legal factors, including primarily the importance of religion in a given society.

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### I. Books and articles

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