

An Empirical Analysis of Regional Differences in Sentencing of Intentional Injuries in Tibet

Yubing Wang^{1,a,*}, Fei Liu^{1,2,b}, Qiyu Ge^{1,c}, Yuxue Wang^{3,4,d}

¹School of Political Science and Law, Tibet University, Lhasa, Tibet 850000, China

²Institute of Fishery Science, College of Agriculture and Animal Husbandry of Tibet Autonomous Region, Lhasa, Tibet 850030, China

³Fujian Xinhua Distribution Group Fuzhou Branch, Fuzhou, Fujian, 350002, China

⁴Propaganda Department of the CPC Fujian Provincial Committee, Fuzhou, Fujian, 352101, China

^a827826665@qq.com, ^bliufei636@163.com, ^c1004715916@qq.com, ^d823549417@qq.com

*Corresponding author

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Abstract: The statistical analysis of 809 judgment documents of intentional injury crimes in Tibet shows that there is no significant difference in the sentencing of intentional injury crimes in 7 municipalities in Tibet, and the sentencing results of 7 municipalities in Tibet are lighter than the provisions of Article 234 of the Criminal Law. From the perspective of the consistency between the overall sentencing range and Article 234 of the Criminal Law, Shannan City > Ali city > Qamdo City > Shigatse City > Nyingchi City > Naqu City > Lhasa City. That is to say, the sentencing judgment of all levels of courts in Lhasa for intentional injury crimes is the lightest, and the sentencing judgment of all levels of courts in Shannan City for intentional injury crimes is the most consistent with the provisions of Article 234 of the Criminal law.

1. Introduction

Intentional injury crime is one of the most common crimes in criminal crimes. As a traditional criminal crime, there has been a clear general explanation and conclusion on intentional injury crimes in academic circles. To unify sentencing standards, the Supreme People's Court issued the initial sentencing guidelines in 2008. In 2021, the Supreme People's Court and the Supreme People's Procuratorate jointly issued a notice entitled "Guidelines on Sentencing of Common Crimes (for Trial Implementation)" (hereinafter referred to as "Guidelines"), which will be fully implemented in courts and procuratorates nationwide from July 1, 2021. As the country's laws become more standardized, judicial authorities across the country are becoming more cautious in the sentencing of intentional injury.

However, in judicial practice, there are some differences between theory and practice, and the latest guidelines for conviction and sentencing standards are difficult to reduce the regional differences of intentional injury crimes. According to a search on the website of China Judgment Documents, the proportion of second-instance judgment documents containing the word "improper sentencing" for intentional injury crimes has increased significantly since 2014. [1]

At present, the research on the standardization of sentencing and regional differences of intentional injury crime mainly focuses on the victim fault, the degree of serious injury, the level of black evil force, the level of cruelty by means and so on.[1,2] There are no reports on regional differences in the sentencing of intentional injury in Tibet. Located in the main body of the Tibetan Plateau, Tibet Autonomous Region has an area of more than 1.2 million square kilometers, accounting for about 1/8 of our country's land area. Above an average altitude of 4,000 meters, the climate is cold, low oxygen and ultraviolet radiation are extremely strong, and the population of the entire region is not suitable for the vast area. The shortage of educational resources and judicial talents caused by the harsh plateau climate, as well as the differences in culture and folk customs in different regions, increase the possibility of the difference in the sentencing of intentional injury crimes in different regions of Tibet. As an important ecological and strategic security barrier in China, the stability of Tibet bears on national security. Regional differences in the sentencing of intentional injury crimes in Tibet will cause the Tibetan people to question the fairness of the judiciary in Tibet, seriously damage the credibility of the judiciary in Tibet, affect the authority of the state in the rule of law in Tibet, and lay the hidden dangers for the harmonious and stable development of Tibet. Therefore, it is necessary to carry out a study on regional differences in the sentencing of intentional injury crimes in Tibet, to provide an empirical analysis to reflect judicial justice in Tibet and promote the stable development of Tibet, and to provide theoretical basis and data support for the Higher People's Court of Tibet Autonomous Region to issue sentencing guidelines for intentional injury crimes applicable to Tibet. [3-5]

2. Sample Description and Data Processing

This paper mainly selects all intentional injury judgments in Tibet Province as research samples from the website of China Judgement Documents, which was opened on July 1, 2013. The description and data processing of the sample data are as follows:

2.1 Sample Arrangement

The specific quantification method is: "1= Lhasa City; 2= Qamdo City; 3= Shannan City; 4= Shigatse City; 5= Naqu City; 6= Ali City; 7= Nyingchi City."

The time of extracting judgments of intentional injury crime in this paper ended on July 7, 2022. At that time, there were 809 judgments of intentional injury crime in China's website of Judgment Documents, and this paper extracted 809 (none of them were omitted in all prefectures, cities, districts and counties). After excluding 2 duplicate judgments and 19 judgments with data not disclosed, a total of 788 judgments were finally determined as research samples. That is, the proportion of sample instruments taken to the total instruments was 97.4 per cent. Then, this paper extracted 921 intentional injury criminals from the sample documents (290 of them were tried by the intermediate and basic people's courts of Lhasa, 281 by the intermediate and Basic people's courts of Qamdo City, 70 by the intermediate and basic people's courts of Shannan City, 72 by the intermediate and basic people's courts of Shigatse City, 99 people were tried by the Intermediate and basic people's Court of Naqu City, 13 people were tried by the Intermediate and Basic People's Court of Ali City, and 96 people were tried by the Intermediate and Basic People's Court of Nyingchi City).

2.2 Distribution of Sentencing Results

In this paper, when designing the main penalty result variable, the specific sentence of the intentional injury offenders is accurate input. In detail, according to Article 234 of the Criminal

Law, the punishment result of intentional injury can be divided into exemption from criminal punishment, criminal detention, fixed-term imprisonment, life imprisonment, suspended death sentence and death penalty. As for the specific distribution of punishment results imposed on intentional injury offenders in different regions of the sample, see Table 1 (unit: %) :

Table 1: Distribution of sentencing results (unit :%)

Range of sentence	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7
Immunity from criminal punishment	1.38	0.71	11.43	0	0	0	1.04
Criminal detention	24.83	24.19	34.29	13.88	3.03	15.38	11.47
<1 year	43.79	26.69	22.89	25	39.39	30.79	50
1-2 years	7.24	11.03	10	19.44	21.21	7.69	7.29
2-3 years	2.75	4.27	0	1.39	10.11	0	3.125
3-4 years	6.55	12.12	14.28	23.62	9.09	15.38	12.5
4-5 years	0.69	2.49	0	4.17	5.05	0	0
5-6 years	2.41	2.13	0	0	1.01	0	1.04
6-7 years	0.69	0.36	1.42	0	2.02	0	0
7-8 years	0.34	0	1.42	0	0	0	2.08
8-9 years	0	1.42	0	1.39	0	0	0
9-10 years	0.34	1.07	0	1.39	1.01	0	0
10-11 years	1.38	4.98	2.85	4.17	4.04	7.69	5.21
11-12 years	1.38	3.91	1.42	2.77	2.02	7.69	3.125
12-13 years	0.34	2.13	0	1.39	1.01	7.69	2.08
13-14 years	2.08	1.07	0	1.39	1.01	7.69	0
14-15 years	1.04	1.07	0	0	0	0	0
> 15 years	1.73	0	0	0	0	0	0
Life imprisonment	1.04	0.36	0	0	0	0	1.04
death	0	0	0	0	0	0	0
immediate execution	0	0	0	0	0	0	0
Total	100	100	100	100	100	100	100

2.3 The Distribution of the Victim's Disability Level and Sentencing Circumstances

Due to the differences in the sentencing results of intentional injury, crimes in different regions, not only may be due to the differences in the basic facts of the sentencing of the victim's disability level, but also may depend on the differences in the legal and discretionary sentencing circumstances, so it is necessary to control the sentencing differences caused by these factors. [6-8]Therefore, on the one hand, this paper accurately inputs the victim's disability level when designing the variables of the victim's disability level. The specific distribution of the victim's disability level caused by intentional injury criminals in each region of the sample is shown in Table 2 (unit: %):

On the other hand, when designing the variables of statutory and discretionary sentencing circumstances, this paper selects all statutory sentencing circumstances and discretionary sentencing circumstances with high influence that can be extracted from the judgment as much as possible. The details include surrender, merit, confession, accessory confession, pregnancy, especially cruel, attack in public, use of murder weapon, first offender, recidivism, victim's fault, and understanding of positive compensation, etc. The detailed quantitative methods and sample data of the plot variables are shown in Table 3 (unit: %):

Table 2: Distribution of the victim's disability level (unit: %)

Victim disability level	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7
Minor injuries	0.41	2.51	13.33	0	2.38	0	2.27
Minor injury level one	18.67	20.08	13.33	14.28	20.24	23.09	13.63
Minor injury level two	54.37	35.98	51.67	38.57	44.05	30.78	52.28
Seriously injured	0	2.93	1.67	1.42	1.19	0	2.28
Serious injury Level one	0.41	0	0	0	0	0	0
Serious injury Level two	13.69	17.99	11.67	31.45	21.42	7.69	17.04
death	12.45	20.51	8.33	14.28	10.72	38.49	12.5
Total	100	100	100	100	100	100	100

Table 3: Distribution of sentencing circumstances (unit :%)

Circumstances of sentencing		Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7
surrender	0=N	63.11	44.12	48.57	86.11	79.79	61.53	71.875
	1=Y	36.89	55.88	51.43	13.89	20.21	38.47	28.125
meritorious	0=N	98.62	82.56	100	100	100	100	100
	1=Y	1.38	17.44	0	0	0	0	0
frank	0=N	57.24	68.68	50	56.94	43.43	76.92	62.5
	1=Y	42.76	31.32	50	43.06	56.57	23.08	37.5
accessory	0=N	97.24	91.81	97.14	100	86.86	100	90.625
	1=Y	2.76	8.19	2.86	0	13.14	0	9.375
plea	0=N	55.86	24.55	40	40.27	27.27	38.46	44.79
	1=Y	44.14	75.45	60	59.73	72.73	61.54	55.21
pregnancy	0=N	100	100	100	100	100	100	100
	1=Y	0	0	0	0	0	0	0
Extremely cruel	0=N	100	81.85	100	100	100	100	100
	1=Y	0	18.15	0	0	0	0	0
Murder in public	0=N	13.11	19.57	20	31.94	39.39	15.38	31.25
	1=Y	86.89	80.43	80	68.06	60.61	84.62	68.75
Use the murder weapon	0=N	22.42	20.28	35.71	13.88	17.17	7.69	26.04
	1=Y	77.58	79.72	64.29	86.12	82.83	92.31	73.96
First offense incidental offense	0=N	85.51	74.37	71.42	91.66	87.87	76.92	97.91
	1=Y	14.49	25.63	28.58	8.34	12.13	23.08	2.09
Constitute a recidivist	0=N	78.96	81.85	82.85	94.44	100	100	87.5
	1=Y	21.04	18.15	17.15	5.56	0	0	12.5
victim's fault	0=N	68.87	82	63.33	70	76.19	53.84	77.27
	1=Y	31.13	18	36.67	30	23.81	46.16	22.73
Actively compensate and gain understanding	0=N	17.24	38.07	24.28	75	33.33	7.69	34.375
	1=Y	82.76	61.93	75.72	25	66.67	92.31	65.625

3. Results and analysis

According to the three categories of disability, namely, minor injury, serious injury, and death, Table 2 is summarized and analyzed to obtain the distribution of disability levels of victims of intentional injury crimes in 7 prefectural cities in Tibet (Table 4).

Table 4: Summary and Distribution of Victim Disability Levels (Unit:%)

Victim's disability level	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7
minor wound	73.45	58.57	78.33	52.85	66.67	53.83	68.18
Serious injury	14.1	20.92	13.34	32.87	22.61	7.69	19.32
death	12.45	20.51	8.33	14.28	10.72	38.49	12.5

According to Table 1, the distribution of sentencing results of criminals of intentional injury crime in 7 cities of Tibet is summarized and analyzed (Table 5).

Table 5: Distribution of sentencing results (unit:%)

Sentencing range	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7
<3 yaers	79.99	66.89	78.61	59.71	73.74	53.86	72.925
3-10 years	11.02	19.59	17.12	30.57	18.18	15.38	15.62
>10 years	8.99	13.52	4.27	9.72	8.08	30.76	11.455

Article 234 of the Criminal Law of the People's Republic of China stipulates that whoever intentionally injures another person's body shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance. Whoever commits the crime mentioned in the preceding paragraph, thereby causing serious injury to another person, shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; [9,10]if he causes death of another person or causes serious injury to another person resulting in serious disability by especially cruel means, he shall be sentenced to fixed-term imprisonment of not less than 10 years, life imprisonment or death. According to this article, without considering the variable of sentencing circumstances, the ratio of the distribution of the summary of victims' disability levels in the 7 prefectural cities of Tibet to the distribution of sentencing results in the 7 prefectural cities of Tibet should be equal to 1. However, the actual ratio of the distribution of victims' disability levels in 7 prefectural cities of Tibet to the distribution of sentencing results in 7 prefectural cities of Tibet is shown in Table 6.

Table 6: Ratio of the distribution of victims' disability levels and the distribution of sentencing results in 7 prefecture-level cities of Tibet Province (unit :%)

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7
Minor injury/sentencing	91.82	87.56	99.64	88.51	90.41	99.94	93.49
Serious injury/sentencing	127.94	106.78	77.92	107.52	124.36	50	123.68
Death/sentencing	138.48	151.7	195.08	146.91	132.67	125.13	109.12

Shapiro-Wilk normality test was conducted on the results of light injury/sentencing, serious injury/sentencing, and death/sentencing in 7 prefectural cities of Tibet Province.

In Table 7, SW test results show that all p values are much higher than 0.05, that is, under the condition of significance level of 0.05, the samples obey the original hypothesis of normal distribution and meet the conditions of ANOVA. Therefore, ANOVA can be used to investigate the significance of regional differences in the sentencing of intentional injury crimes. Therefore, the analysis of variance test method is proposed below.[11]

Table 7: Shapiro-Wilk normality test of cities in Tibet

Shapiro-Wilk normality test	
Data: District 1 Minor injury/sentencing, serious injury/sentencing, death/sentencing result	W=0.90894,p-value=0.4146
Data: District 2 Minor injury/sentencing, serious injury/sentencing, death/sentencing result	W=0.9492,p-value=0.5658
Data: District 3 Minor injury/sentencing, serious injury/sentencing, death/sentencing result	W=0.88341,p-value=0.3345
Data: District 4 Minor injury/sentencing, serious injury/sentencing, death/sentencing result	W=0.96099,p-value=0.6203
Data: District 5 Minor injury/sentencing, serious injury/sentencing, death/sentencing result	W=0.89071,p-value=0.3565
Data: District 6 Minor injury/sentencing, serious injury/sentencing, death/sentencing result	W=0.96509,p-value=0.641
Data: District 7 Minor injury/sentencing, serious injury/sentencing, death/sentencing result	W=0.99958,p-value=0.9609

Note: a p value >0.05 means that the accepted sample population follows the original hypothesis of normal distribution.

The results of light injury/sentencing, serious injury/sentencing, and death/sentencing were tested by analysis of variance. The results showed that f-value =0.265, Pr (>F) =0.944>0.05, and there was no significant difference in the results of light injury/sentencing, serious injury/sentencing and death/sentencing in 7 prefectural cities of Tibet (Figure 1). According to the median of the boxplot, it can be observed that the sentencing results of 7 prefectural cities are lighter than those stipulated in Article 234 of the Criminal Law. In terms of the consistency between the overall sentencing range and Article 234 of the Criminal Law, Region 3> Region 6> Region 2> Region 4> Region 7> Region 5> Region 1. That is to say, the sentencing judgment of all levels of courts in Lhasa was the lightest for the crime of intentional injury, and the sentencing judgment of all levels of courts in Shannan City was the most consistent with the provisions of Article 234 of the Criminal Law. However, in general, there was no statistically significant difference in the sentencing judgment of the crime of intentional injury in the 7 prefectures of Tibet, which was relatively light on the whole.

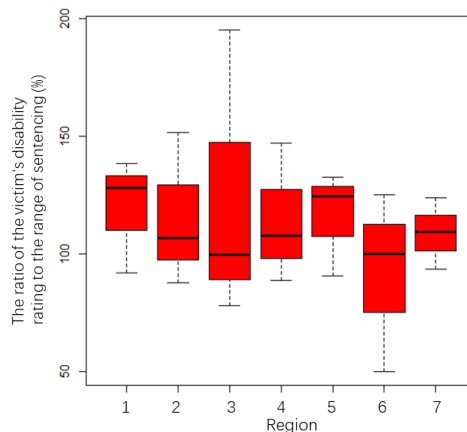


Figure 1: Boxplot of the difference between the ratio of the victim disability level and the sentencing range in different cities of Tibet Province

According to the 788 judgments of intentional injury crimes downloaded by China Judicial Documents Website, the appeal rate of the second trial in 7 cities in Tibet is shown in Table 8. Among them, the above rate is Region 3> Region 5> Region 2> Region 1> Region 7= Region 4=

Region 6, and Regions 4, 6, and 7 with the above rate 0 are excluded. In essence consistent with the overall sentencing range and Article 234 of the Criminal Law.

Table 8: Appeal Rate of 7 cities in Tibet (Unit: %)

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7
Rate of appeal	1.24	1.28	5.62	0	1.64	0	0

4. Discussion and Conclusion

Through the analysis of variance on the results of light injury/sentencing, serious injury/sentencing, and death/sentencing in different cities of Tibet, it is found that there is no significant difference in the sentencing of intentional injury crimes in the 7 cities of Tibet, and the sentencing results of the 7 cities of Tibet are lighter than the provisions of Article 234 of the Criminal Law. From the perspective of the consistency between the overall sentencing range and Article 234 of the Criminal Law, Region 3 > Region 6 > Region 2 > Region 4 > Region 7 > Region 5 > Region 1. That is to say, the sentencing judgment of all levels of courts in Lhasa for intentional injury crimes is the lightest, and the sentencing judgment of all levels of courts in Shannan City for intentional injury crimes is the most consistent with the provisions of Article 234 of the Criminal law.

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