

## Object of the Crime of Spreading a Genite or Hiv Disease/Aids

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**Abstract:** This article analyzes the concept, signs and characteristics of the object of the crime of sexually transmitted or HIV/AIDS. The article describes the number of sexually transmitted diseases or the crime of spreading HIV/AIDS around the world and the statistics of the crime of spreading a sexually transmitted disease or HIV/AIDS in our republic in 2014-2022. Also, the opinions expressed by many scientists on the crime of spreading the sexually transmitted disease or HIV disease/AIDS have been studied, and the author has justified his scientific views on this. In addition, foreign countries such as Spain, Belgium, Switzerland, Denmark, Moldavia have been studied and compared according to the object of the crime. Also, the author has put forward his conclusions and suggestions based on the scientific analysis of the crime of spreading sexually transmitted diseases or HIV/AIDS.

**Key words:** crime, sexual, HIV disease, AIDS, object, health, patient, infection, risk of infection, disease, epidemic, risk, human life, health, responsibility, punishment.

According to the World Health Organization, there are about 40 million HIV patients in the world. Their number is increasing by an average of 1.5 million people per year, and worst of all, the disease kills more than 600,000 people every year. Since the beginning of the AIDS epidemic on earth, 75 million people have been infected with this disease, and more than 32 million have died[1].

In our country, special attention is being paid to the issue of combating the crime of sexually transmitted diseases or the spread of HIV/AIDS, which poses a real threat to the state, society and citizens. In turn, timely detection of these crimes, their prevention is the priority of the state policy on curbing crime and protecting human life and health.

According to UN data on the spread of HIV/AIDS infection in the countries of Central Asia:

- 42 thousand in Uzbekistan;
- 24 thousand in Kazakhstan;
- 8.5 thousand in Tajikistan;
- 9,000 citizens of Kyrgyzstan are infected with HIV. The first cases of HIV infection in Uzbekistan were detected among foreign citizens in 1987, and began to spread widely in 1989. As of 2019, 40,375 people living with HIV infection were registered in Uzbekistan" [2].

In the world, special attention is paid to the reliable protection of human life and health, the fight against the spread of various infectious diseases, the improvement of the norms of the criminal law establishing criminal liability for acts in this area, the prevention of sexually transmitted diseases or the spread of HIV/AIDS, including acts that are dangerous to life or health. criminal-legal regulation, correct qualification of these crimes and the imposition of a fair punishment for the subject of the crime, determining the reasons and conditions for the commission of these crimes, and researching new directions and prospects for prevention are becoming important.

In general, until the 20th century, criminal liability for contracting infectious diseases, including venereal diseases, was provided for in the legislation of countries such as the USA, Australia, Norway, and Canada. Liability for this crime was introduced after the First World War in response to the

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widespread spread of sexually transmitted diseases in the territory of these countries in connection with prostitution.

In some countries, responsibility for contracting venereal diseases is separated as a separate crime, while in other countries (Spain, Belgium) it is punished as part of the general crime related to bodily injury" [3].

The fight against the widespread spread of sexually transmitted diseases and HIV and AIDS, which are currently worrying the whole world and are killing many people, has an important place in protecting the health of the young generation in our country, as well as the health of other people.

In particular, we can see that these diseases are growing as a result of the crime of spreading sexually transmitted diseases or HIV/AIDS in the following figures: It has been determined that children under 18 years of age are involved. At the same time, the high rate of AIDS incidence is due to internal migration and large population in Tashkent city and Tashkent region" [4].

Currently, the number of patients with Genital or HIV diseases and AIDS, which is one of the urgent problems of the 21st century, is increasing day by day, and the number of criminal cases related to the risk of infecting or infecting other people with such diseases is also increasing [5].

Liability for spreading sexually transmitted diseases or HIV/AIDS as one of the crimes threatening life or health is provided for in Article 113 of the Criminal Code. This article provides for five types of crimes related to the spread of sexually transmitted diseases or HIV/AIDS, which differ from each other according to the method, consequence, object and subject of the crime. In this article, we will focus in detail on the object of the crime related to the spread of sexually transmitted diseases or HIV/AIDS.

Sexually transmitted diseases, HIV or AIDS with their consequences pose a high social risk. In particular, the victim who contracted these diseases may lose his ability to work, women may experience infertility, and finally, it may cause human death.

"The danger of genital, HIV or AIDS infection is that the first signs of infection are not immediately apparent" [6].

According to Article 113 of the Civil Code, the source of the disease is characterized by the fact that it poses a danger to the surrounding people, can spread quickly among the population, the disease is severe, the disability or death rate is high. "The social danger of infectious diseases is determined by the fact that it harms not only the health of the victim, but also public health" [7].

In 2014-2022, the crime of spreading sexually transmitted diseases or HIV/AIDS in our republic was 21 (26 persons), 2015 – 32 (37 persons), 26 (26 persons) in 2016, 29 in 2017 (32 persons), in 2018 – 30 (30 persons), in 2019 – 24 (24 persons), in 2020 – 89 (91 persons), in 2021 – 94 (99 persons) , in 2022 – 110 (114 persons) [8] were committed. As we have witnessed, this crime has been steadily increasing since 2019, which also shows the high level of social danger of this crime.

The social danger of this crime is also determined by the social danger of sexual intercourse and HIV/AIDS. "Venereal disease belongs to the series of dangerous infectious diseases and has a devastating effect on the health of the nation" [9].

And E.N. Moskaleva believes that "genital or HIV disease/AIDS is practically equal to an attack on human life" [10].

S.S. Vlasenko also believes that the social danger of the spread of sexually transmitted diseases, HIV/AIDS is related to the danger of these diseases. In particular, the author defines the social danger of this crime, such as "excessive harmfulness of these diseases, human death, disability, irreparable damage to public health as a result of them. The high social danger of this crime is also related to the increasing tendency of the spread of these diseases, as well as to the fact that significant financial resources are spent by the state to implement medical-sanitary, anti-epidemiological measures against them" [11].



The main factor in assessing the social danger of this or that act is the damage it can cause to social relations protected by the criminal law.

As G. A. Agaev and T. O. Boziev noted, "harm is manifested in the ability of a socially dangerous act to cause negative social consequences" [12]. That is, the social danger of the crime is expressed in the fact that it causes real damage to the social relations that ensure the safe existence of the individual, society and the state.

T. A. Nerushenko writes that "the social danger of this crime is first of all manifested in endangering the life and health of the victim through the possibility of HIV infection or sexually transmitted diseases" [13].

D. M. Adylin said, "HIV disease is a slow-developing infectious disease caused by human immunodeficiency virus infection, which damages the human immune system, as a result of which the body becomes susceptible to other infectious diseases and ultimately leads to the death of the patient" [14].

In general, the beginning of the new millennium has coincided with the increasing threat of mass spread of infectious diseases, which pose a serious threat to the people around them. These include HIV infection, tuberculosis, hepatitis V and C, Ebola virus, and other infectious diseases characterized by severe morbidity and high rates of disability and mortality. This situation also determines the need to fight against these infectious diseases with the help of criminal-legal means.

In the scientific field, special attention is paid to its object as the main criterion for distinguishing the crime of spreading the sexually transmitted disease or HIV/AIDS from other similar crimes. "The direct object of the crime of spreading HIV disease/AIDS has its own characteristics" [15].

The analysis of criminal legal literature shows that there are two approaches to defining the object of this crime. In particular, the first group of legal scholars shows "the health of the victim (human) as the direct object of the crime of spreading genital or HIV disease/AIDS" [16].

According to them, "the direct object of the crime of sexually transmitted disease or HIV/AIDS is the social relationship or human health that ensures the protection of another person's health from the transmission of such diseases" [17].

In particular, the Uzbek jurist F.N. Narzilloev also writes that "the direct object of the crime provided for in the first, second and third parts of Article 113 of the Criminal Code is social relations that ensure the health of another person" [2].

Yu.S. Norvartyan also said that "the direct object of the crime of spreading HIV disease/AIDS consists of social relations that arise in connection with ensuring the health of another person. In turn, public health is considered an additional object of this crime as a structural element of the security of the whole society" [18], he writes.

V. P. Revin also believes that "the direct object of this crime is social relations aimed at protecting the health of another person from real transmission of venereal diseases" [19].

According to S. V. Rastoropov, "genitals are the direct object of the crime of spreading HIV, AIDS diseases, and are social relations aimed at protecting the health of another person from the actual transmission of venereal diseases" [20].

The second group of scientists believe that the direct object of this crime is social relations that protect human life and health. For example, M.H. Rustambaev considers the object of this crime to be "social relations that ensure the safety of a person's life and (or) health" [21].

A. I. Rarog notes that "this crime is an attack on human health as well as on his life, because an effective means of combating this disease has not been created, and the person infected with it dies gradually" [22].

Proponents of this approach believe that when contracting a sexually transmitted disease or HIV/AIDS, the victim's health is violated first, but "severe forms of the disease can also cause human



death" [14], as a result of this crime, not only the victim's health can be damaged, but the transmission of this disease can lead to death. they believe that it can also be the reason.

For example, V.M. Lebedev and D.A. Turkinalar [23] also describe "the direct object of this crime as the life and health of the victim who is at risk of contracting sexually transmitted diseases, HIV, AIDS."

T.A. Nerushenko also stated that "the special object of the crime of spreading the sexually transmitted disease or HIV/AIDS is social relations regarding the protection of the individual, the related object is social relations regarding the protection of human life and health, and the direct object is the life and health of the victim" [13], writes.

S.S. Vlasenko and V.I.Zubkova also stated that "the health and life of the victim, given that the drug for HIV, AIDS has not yet been created and it causes death" [24], and N.K. Semerneva, "the life of a particular person" [25] show.

A.N. Burdinskaya also writes about two direct objects of this crime: "the main direct object is social relations in the field of protection of human right to health; direct facultative object - social relations in the field of protection of human life" [26].

S.S. Vlasenko points out "social relations arising in connection with ensuring human life and health" [27] as the direct object of this crime.

E. Sidorenko, as the direct object of this crime, shows "social relations that determine the prevention of the spread of HIV infection as an element of ensuring the integrity of human life and health" [28].

According to L.A. Mozhaiskaya, "genital or HIV disease/AIDS is a double object crime: the main direct object is human health and the optional object is human life." According to the author, "HIV infection does not always lead to AIDS and, accordingly, does not always cause human death, therefore human life should be considered as a facultative object" [29].

This opinion is controversial, because according to the theory of criminal law, "the direct facultative object of the crime is harmed in some cases as a result of the crime, but not in other cases" [30].

Practice shows that infection with HIV causes death either from AIDS or from secondary related diseases. For this reason, among experts of criminal law, the opinion that "HIV disease/AIDS infection always attacks two main objects - human life and health" [31] is widely popular.

However, in our opinion, if we take into account the fact that the crime begins when the human body is infected with HIV, AIDS, other socially dangerous consequences, in particular, the death of a person, appear after a certain period of time, it is debatable to show human life as the direct object of this crime.

It should also be taken into account that it is impossible to transmit AIDS to someone. Only HIV can be transmitted to another person, and AIDS (acquired immunodeficiency syndrome) is a condition that develops on the basis of HIV infection" [32].

"The average time from HIV infection to the development of AIDS is ten years. As a result of the effects of HIV disease, the number of CD4+ lymphocytes in the human body decreases, a condition called AIDS occurs, and any virus or bacteria that does not affect people with a full immune system has a fatal effect" [33].

At the same time, according to the fifth part of Article 113 of the Civil Code, that is, the social relations that determine the proper fulfillment of obligations by a person as an additional object in the transmission of HIV disease/AIDS to another person as a result of a person's failure to perform or improperly perform their duties related to their profession are also damaged.

It should be noted that the crime of sexually transmitted disease or spreading HIV/AIDS is included in the chapter "Crimes dangerous to life or health" of the "Crimes against the person" section as an important criterion for determining its special and related objects.



At the same time, "due to the epidemiological nature of these diseases, the serious consequences and the rapid spread of the disease, this issue has been solved in different ways in foreign countries" [34], for example, in the UK of Switzerland, this attack is "crimes against public health" [35], in the UK of Denmark, "community "Crimes against public health and common way of life" [37], and "Crimes against public health and general way of life" [37] in the Republic of Moldova. This indicates that the issue of the object of this crime (public safety, public health) is solved differently in these countries.

Although these crimes do not pose a direct threat to life and health compared to crimes against life and health, their commission poses a real danger to human life and health.

As a result of the commission of these crimes, a person's life and health are in danger, in many cases it causes serious damage to his health, disability or premature death.

In addition, the level of social danger of life or health-threatening crimes is also explained by the fact that some of these crimes become public and pose a threat to the lives and health of many people.

Usually, two or more people can be affected by the crime of spreading sexually transmitted diseases or HIV/AIDS. For example, in Bukhara region, 40 people were infected with AIDS, while in Fergana region, 20 people were infected with AIDS, knowing that the criminal had AIDS. "In particular, more than 48,000 people are living with HIV in our country today, and although the indicators have decreased in the last 10 years, since 2020, the number of cases of the disease has been continuously increasing. According to the figures, 2,817 people were diagnosed with this disease in 2020, 3,289 in 2021, and 3,889 in 2022" [37].

Summing up from the above, it is possible to put forward the following conclusions and suggestions:

1. Regarding the object of the crime of spreading genital or HIV disease/AIDS, it can be concluded as follows: the special object is social relations related to the protection of the individual, the related object is social relations regarding the protection of human life and health. The main direct object of Article 113 of the Civil Code is social relations that ensure the safety of a person's life and (or) health. An additional direct object of this crime is public health, which is considered a structural element of the security of the entire society. According to the fifth part of Article 113 of the Civil Code, that is, the social relations that determine the proper performance of one's obligations by a person as an additional object in the transmission of HIV disease/AIDS to another person as a result of a person's failure to fulfill or improperly fulfill their duties related to their profession are also harmed. The direct facultative object of the crime can be social relations in the field of protection of human life.
2. A study of the current criminal law has shown that there are serious problems related to the crime of sexually transmitted diseases or the spread of HIV/AIDS. We believe that it is necessary to improve the norms of the criminal law, taking into account the international and national legislation and the experience of foreign countries. In particular, Article 113 of the Criminal Code mentions only "genital, HIV disease/AIDS", and serious infectious diseases are not the only ones, for example, tuberculosis, typhoid, etc., have a high social risk. Taking this into account, Article 113 of the Criminal Code makes it appropriate to establish responsibility for the transmission of "other dangerous infectious diseases" in addition to sexually transmitted diseases, HIV/AIDS. This includes the approval of the list of infectious diseases that pose a danger to the people around them by the Cabinet of Ministers of the Republic of Uzbekistan.
3. In the cases of aggravating responsibility of Article 113 of the Criminal Code of the Republic of Uzbekistan, we can see that the aggravating circumstances in relation to the object of the crime are not sufficiently taken into account. Based on this, it was considered appropriate to expand the scope of aggravating circumstances in Article 113 of the Civil Code and to include the commission of these actions "against a woman whose pregnancy is known to the guilty party" as an aggravating circumstance.



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