



## THE CONCEPT OF VENEREAL DISEASES AND MEASURES OF CRIMINAL LIABILITY FOR THE TRANSMISSION

Ruziyev Izzatullo Nematulloyevich

Doctoral student of the Post graduation faculty,  
Academy of the MIA of the Republic of Uzbekistan.

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**Annotation:** The article analyzes the concept of venereal disease, its essence, historical provenance, and stages of determining liability for transmission of venereal disease, as well as its criminal-legal aspects. The attitudes and thoughts of scientists in this regard have been studied, and proposals and recommendations are developed regarding the improvement of liability for the transmission of this disease.

**Keywords:** venereal disease, crime, punishment, injury, liability.

Nowadays, venereal diseases have become a topical problem in all countries. This disease endangers a serious threat to the health of the whole citizens of countries. Venereal disease also has a negative impact on national development and stability by harming the working-age population, risking discrimination against those affected by the disease, and jeopardizing people's healthy, freewheeling lives. In addition, this disease leads to the birth of disabled children by virtue of genetic transmission.

Venereal disease is included in the category of sexually transmitted diseases as listed by the World Health Organization due to its level of danger from other diseases, the severity of the consequences caused by the disease. Moreover, 1) Ulcer 2) Goiter 3) Soft chancre (chancroid) 4) Venereal lymphogranulomatosis 5) Venereal granulema (chov) are included accordingly in the list of venereal diseases by the World Health Organization.

Analyzing the history of the emergence of venereal diseases and the determination of criminal liability, it has become known that venereal disease has been known since ancient times, in particular, the symptoms of syphilis are described in detail in the ancient literary sources of Greece and Rome. The archaeologists have found evidence of decay of human bones by syphilitic gum in ancient cemeteries, in Europe.

Venereal diseases were spread widely and called "sexual plague" in the 15<sup>th</sup> century. It is known that the disease began in Spain in 1494. Then this disease moved to Italy, France, Denmark, Switzerland, Holland, Poland (in 1495), then in Germany (in 1496), and finally in England and Russia (in 1499)<sup>1</sup>.

The drastic actions toward the fight against sexually transmitted diseases in the former Soviet Union was determined by the opening of the Moscow State Institute of Venereology on December 17, 1921, and this problem increased the interest of the community.

The leadership of the country elucidated this issue as important priority area to promptly address and stipulate criminal liability for transmitting this disease in the Criminal

<sup>1</sup> Children's skin and venereal diseases: Textbook/ Mannanov A.M., Khaitov K.N.; Ministry of Higher and Secondary Special Education of the Republic of Uzbekistan. Tashkent Pediatric Medical Institute; T.: "Economy-Finance", 2016. P.560. (used page is 386).

Code in order to prevent the spread of sexually transmitted diseases and to apply criminal-legal measures for transmitting this disease.

The criminal liability and norm for the “deliberately infecting another person with a serious venereal disease” has been stipulated in the Criminal Code of the RSFSR six months after the opening of the venereology institute, on July 1, 1922. As a punishment, up to 3 years of imprisonment has been introduced for contracting this disease<sup>2</sup>.

The Criminal-legal legislative reforms in the context of improvement the liability for sexually transmitted diseases took place in 1923. The disposition for “intentionally and carelessly infecting another person with venereal disease” constitutes a crime, regardless of the method of transmission as depicted in the Article 155 of the current Criminal Code of the All-Russian Congress<sup>3</sup>.

The Second All-Russian Congress on the fight against venereal diseases was held in 1925. The purpose of this congress was to summarize the results of legislative practice on venereal disease. Correspondingly, the Article 155 of the Criminal Code of the RSFSR and a plan of further measures to combat sexually transmitted diseases were developed.

Consequently, on the initiative of the People’s Commissariat of Health of the RSFSR, the Article 155-a of the Criminal Code of the RSFSR was supplemented on August 6, 1926, henceforth, strengthened the punishment system for persons who deliberately contracted a venereal disease and committed a crime.

Nevertheless, later these two articles (Article 115 and Article 15-a) were amended and merged into the Article 150. The article 150 contained two parts and it was stipulated as follows: “Transmission of venereal disease to another person by a person who knows that he is infected with this disease (means intentionally transmission) – the sanction was imprisonment for up to three years. The punishment for “deliberately endanger another person at risk of contracting a sexually transmitted disease through sex or other activities” – was defined up to six months of imprisonment or correctional works<sup>4</sup>.

The criminal liability has been stipulated in the the Article 113 of the Criminal Code of the Republic of Uzbekistan in order to prevent venereal diseases and to avert the transmission of these diseases to other healthy persons (spreading venereal disease or HIV/AIDS) after the independence of the Republic of Uzbekistan.

In addition, medical examination of persons getting married has been introduced according to the decision of the Cabinet of Ministers dated on August 25, 2003 No. 365 “On approval of the regulation on the medical examination of married - to be persons”. This is aimed at creating conditions for the formation of a healthy family in the society and prevention of the birth of children with hereditary and congenital diseases. In accordance with this decision getting married couples are obliged to check their health conditions in the context of venereal diseases and high-quality medical examinations are carried out free of charge under the state protection<sup>5</sup>.

<sup>2</sup> Criminal Code of the RSFSR in 1922. [https://nnov.hse.ru/ba/law/igpr/sov\\_gos/ugkod\\_22](https://nnov.hse.ru/ba/law/igpr/sov_gos/ugkod_22)

<sup>3</sup> Viktorov, I.S. Criminal liability for the spread of venereal diseases. Saratov, 1980. P.7.

<sup>4</sup> Systematized text of all-union criminal laws and criminal codes of the Union republics. M.: Legal publishing house of the Ministry of Justice of the USSR, 1948. P.403.

<sup>5</sup> Decision of the Cabinet of Ministers of the Republic of Uzbekistan dated on August 25, 2003 No. 365 “On approval of the regulation on the medical examination of married - to be persons”. [Electronic resource]. Access: <https://lex.uz/docs/245890> (Date of application: May 6, 2023).

The most dangerous and widespread diseases included in the list of venereal diseases, are **gonorrhea** and **gout** in the territory of Uzbekistan.

The following table shows the dynamics of persons infected with gonorrhea and gout over the years in:<sup>6</sup>

No	Types of diseases	in 2018	in 2019	in 2020	in 2021	in 2022
1	Gonorrhea	2817	3013	187	2456	2965
2	Gout	3721	3633	442	3056	2959

As of April 1 of this year, the population<sup>7</sup> of the Republic of Uzbekistan is 36.197.788 and the number of patients infected with gonorrhea and gout is 8.1 per 100.000.

Gout is the most common sexually transmitted disease. In addition, there are ways of non-sexual transmission of the disease, transmission through such a way is mainly observed when healthy people are in close household contact with sick persons, that is, when they kiss, use common equipment (spoons, toothbrushes, cigarettes, lipstick). Another way of transmission of the disease is through blood (hemotransfusion), such a situation is observed as a result of the wrong transfusion of blood from patients with gout in cases where there is a need for blood transfusion to recipients due to one or another disease.

The danger of gout disease is that this disease not only harms the health of patients (causes them to be crippled, suffer from various disabilities, and even causes them to die), but also poisons their offspring, that is, it causes birth defects. Congenital gout disease is observed in children born to pregnant women with gout disease. Symptoms of the disease pass from the sick pregnant woman to the fetus through the placental circulation.

In 3.5-4 months of pregnancy, after the process of fetal blood circulation begins, colorless treponemas, the causative link of the disease, pass to the fetus in the form of an embolus through the umbilical veins or through the lymphatic spaces, and later cause the formation of congenital gout disease in children<sup>8</sup>.

Gonorrhoea is the most common types of sexually transmitted disease. Gonorrhoea only affects humans. Gonorrhoea is mainly transmitted through sexual ways. In rare cases, the disease can be transmitted through non-sexual means. The severe consequences of gonorrhoea cause infertility (not giving birth) and other serious consequences for its patients.

Currently, there are problems in the judicial investigation practice in order to prevent the spread and increase of these diseases, and to determine the criminal liability for spreading this disease to other healthy citizens. In order to eliminate these challenges, it is necessary to implement some criminal-legal reforms to the Article 113 of the Criminal Code.

The subjective aspect of the crime is of paramount importance in determining the liability for spreading this disease. Legal scholar M.Kh. Rustambayev described the subjective aspect of this crime as follows: "Gonorrhoea is committed with the outright intention" because the perpetrator knowingly carries out the act of transmitting the sexually transmitted

<sup>6</sup> Response letter (reply) No. 0109/252 dated on May 14, 2023 of the Republican Specialized Center of Dermatovenereology and Cosmetology.

<sup>7</sup> Electronic resource: <https://stat.uz/uz/rasmiy-statistika/demography> (Date of application: May 16, 2023).

<sup>8</sup> Children's skin and venereal diseases: Textbook/ Mannanov A.M., Khaitov K.N.; Ministry of Higher and Secondary Special Education of the Republic of Uzbekistan. Tashkent Pediatric Medical Institute; T.: "Economy-Finance", 2016. P.560. (used page is 353)

disease to the victim and intends and allows such consequences to occur. The motive of the crime may be the revenge of a person without any justification for having a venereal disease.

Khun A.Z. described the subjective aspect of this crime as “intentional and reckless”. To our strong viewpoint, the definition given by M.Kh. Rustambayev has a positive effect on the correct interpretation of the subjective aspect of this crime.

Taking into account the above information, we propose to make appropriate amendments to the Article 113 of the new version of the Criminal Code. More clearly, this concept written in the text of the third part of this article b) **“it is committed against a minor”** creates ambiguities in the judicial investigation practice when determining liability for the person who committed this crime. Considering that, and to make allowance for all information in this regard, it is expedient to amend this text, we propose to change it to b) **in relation to a person that minor is obvious to the guilty person.**

Furthermore, the transmission of venereal disease to the pregnant woman leads to very serious consequences. It affects the life of both the mother and the unborn child. Our current Criminal code does not stipulate liability for venereal disease for intentionally transmitted to a pregnant woman, hence it creates ambiguities in the judicial investigation practice. In order to eliminate these ambiguities, it is appropriate to supplement it with a measure of liability as **b) if it is committed against a woman whose pregnancy is known to the guilty person,** to the third part of this article. The introduction of these proposed amendments to the Article 113 of the Criminal Code enables to fill the criminal-legal gap related to the determination of the liability with this article, prevent ambiguities in the judicial investigation practice and provide a correct legal assessment of this crime.

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