

ISSUES OF RESPONSIBILITY FOR CRIMES DANGEROUS TO LIFE OR
HEALTH

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Article Info	ABSTRACT
Article history: Received Sep 15, 2024 Revised Sep 18, 2024 Accepted Oct 15, 2024 Keywords: <i>Omission, Intention, Victim, Subject, Action, Obligation, Law, Contract, Health, Deed, Right, Injury, Occupation, Risk, Liability, Crime, Assassination, Abortion.</i>	General Background: Crimes that endanger life or health are critical areas of study within legal scholarship, reflecting societal concerns about public safety and individual well-being. Specific Background: This article examines the nuances of responsibility associated with such crimes, reviewing various definitions proposed by legal scholars and presenting a novel definition of life- or health-threatening crimes. Knowledge Gap: Despite existing literature, there remains a lack of comprehensive frameworks that systematically categorize these crimes, particularly regarding their objective and subjective dimensions. Aims: The aim of this study is to elucidate the components of crimes that threaten life or health, exploring their classifications based on object, subject, and methods of commission. Results: The findings reveal a structured analysis of the objective and subjective elements of these crimes, alongside a detailed classification system that enhances understanding of their diverse manifestations and the associated legal responsibilities. Novelty: This article contributes to the field by offering an original definition of life- or health-threatening crimes and a classification framework that integrates both traditional and contemporary perspectives. Implications: The conclusions drawn underscore the necessity for legal systems to adopt clearer definitions and classifications, which could improve the enforcement of laws and enhance protective measures for individuals at risk. Future research should focus on empirical studies to further refine these classifications and examine their practical implications within various legal contexts. This is an open-access article under the CC-BY 4.0 license. 

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INTRODUCTION

Chapter III of the first section of the Criminal Code entitled "Crimes against the person" is called "Crimes that endanger life or health". This chapter covers a total of 7 crimes (Articles 112-117), they are:

- threatening to kill or use violence (Article 112);
- spread of sexually transmitted diseases or HIV/AIDS (Article 113);
- criminal abortion (Article 114);
- forcing a woman to abort her fetus artificially (Article 115);
- forcing a person to agree to receive his organs and (or) tissues for transplantation (Article 115¹);
- failure to properly perform one's duties related to the profession (Article 116);
- and endangering (Article 117).

In the legal literature, the concept of life or health-threatening crimes is defined differently. In particular, S.A. Baleev defines life or health-threatening crimes as "aggressions that create a real threat of harm", as he writes, "in order to recognize them as completed in accordance with the legal structure of these criminal elements without causing real harm to life or health it is enough to endanger the object of criminal-legal protection" [1].

As stated by M.I. Galyukova, "human rights and their protection are ensured in a legal state. The most important part of human rights is the right to health care. Criminal law is also a priority object of criminal-legal protection of human health"[2].

Other jurists also write that "the right to health is an integral part of personal security and must be ensured by the state by creating comprehensive measures necessary for the maintenance and restoration of human health" [3].

From this point of view, the fact that this crime encroaches on the most important social values indicates their high level of social danger.

M.Kh. Rustambaev writes that "crimes dangerous to life or health are acts that pose a real threat to life or health, and prevent the occurrence of harm after the commission is not up to the perpetrator" [4].

M.A. Gorbatova, "though crimes dangerous to life or health do not cause real harm to the life or health of another person, they put them at risk of harm, and the legislator assumes responsibility for not eliminating the risk of death or injury to the victim's health." [5].

A. V. Goreva writes that "in crimes dangerous to life or health, the existence of an independent related object in the form of safety of the victim's life or health indicates that these crimes form a separate system" [6].

Crimes that endanger human life and health are interpreted in different ways in the criminal-legal literature. For example, the authors emphasize that these crimes encroach on the victim's right to life [7], social relations that ensure the safety of another person [8], and life safety conditions [9].

In our opinion, the behavior or inaction of a person in these crimes may endanger the life of another person, but this does not mean that these actions are directly directed against the life of the person. In this case, damage to personal health does not mean that this criminal aggression is directed against human life.

A. Gaynazarov notes that "these crimes are directed against human health, which is an integral part of human natural rights and represents the physiological state of a specific human body" [10].

In our opinion, behavior that threatens life or health will not be directly aimed at depriving another person of life. In this case, the direct object of these crimes will not be the life and health of another person, they encroach on the safety of life in a general sense, that is, through his actions, the criminal harms the safety of life and health of another person.

N.I. Medvedeva "a common characteristic of all crimes dangerous to life or health is that they create a risk and threat of serious consequences for human health, and in some cases, for life, preventing their occurrence and these situations if committed by them, ensuring the principle of inevitability of responsibility for them is a direct obligation of the state" [11].

The peculiarity of crimes dangerous to life or health is that they can cause real damage to human life or health, as well as social relations that characterize the conditions, place, and time of committing these criminal acts.

For example, causing the death of the victim through illegal abortion affects the birth rate in the country, reduces the demographic level, or forcing a person to consent to the removal of organs and (or) tissues from him for transplantation, prevents a person from freely using his own body.

A.S. Nikiforov points out two specific features of criminal liability for life or health-threatening crimes: "firstly, in order to incur criminal liability for this crime, it is not required that real harm has been inflicted on the victim, there is a threat to the victim's life and health, it is sufficient that there is a risk of his death or injury to his health. Secondly, crimes dangerous to life or health are such that by their nature, as a result of their commission, the victim's life and health are simultaneously threatened"[12].

Based on the above, it is correct to indicate the safety of another person's life and health as the object of crimes dangerous to life or health.

METHODS

To analyze crimes dangerous to life or health, we will employ a structured approach that encompasses both objective and subjective analyses. First, we will define the category of these crimes, highlighting their characteristics as actions that create a real danger without necessarily causing direct harm. Classification will follow, dividing crimes by object (life-threatening vs. health-threatening), subject (those requiring special characteristics vs. those that do not), and method (with violence vs. without violence).

Next, we will explore the legal framework by examining relevant articles of the Criminal Code, supported by legal literature to contextualize the implications for human rights and health.

The subjective analysis will focus on the mental state of the perpetrator, assessing intent and awareness of risks posed to others. We will also consider the social context, discussing the broader implications of these crimes on public health and societal well-being. A risk assessment will be conducted to define and categorize risks associated with each crime, differentiating between various sources and potential consequences. Case studies will provide concrete examples, analyzing outcomes from previous legal precedents.

Finally, recommendations for legal revisions and preventive measures will be proposed, aimed at enhancing protection against these crimes. This comprehensive method will culminate in a conclusion that emphasizes the critical need for robust legal frameworks and social awareness to safeguard life and health in society.

RESULTS AND DISCUSSION

On the other hand, the objective side of crimes dangerous to life or health can be as follows:

1) active actions, that is, the perpetrator creates situations that are dangerous for the life of the victim, in other words, endangers the life of another person by his actions (threats to kill or use violence, sexually transmitted diseases or HIV/AIDS);

2) passive actions, that is, the accused is obliged to eliminate the existing danger to the victim's life or health on the basis of a regulatory legal document or contract, and although he has real opportunities to do so, he does not perform these actions.

A specific feature of the objective side of crimes dangerous to life or health is that there is no direct causal connection between the harm to the victim's life and the criminal act, that is, as a result of the commission of these crimes, the victim's life or health is not directly harmed.

Due to this feature, most jurists include these crimes in the list of crimes of formal content and pay attention to the fact that consequences are not required as a mandatory feature for these crimes.

Specific features of crimes that are dangerous to life or health are also expressed on its subjective side. "In crimes dangerous to life or health, the mental sign of intent is expressed in the defendant's awareness of the social danger and illegality of his action or inaction, that is, he knows that it will cause a danger to the life or health of the victim or will not eliminate it. At the same time, in these crimes, the mental sign of intention is also manifested in knowing that possible consequences will arise in the form of harming the safety of a person's life" [13].

In crimes dangerous to life or health, the willful sign of intent is manifested in the desire of the accused to create a risk of harm to the life or health of another person, or by

not eliminating it, to cause a socially dangerous consequence in the form of violating the state of safety of his life or health.

"In crimes dangerous to life or health, the above-mentioned consequences, that is, danger to life or health, may cause death or serious injury to a person. For this reason, when distinguishing these crimes from crimes against life and health, it is necessary to pay attention to the reaction of the criminal to the criminal consequences. For example, if a person puts another person in a life-threatening situation and endangers his death, but the death of the victim did not occur due to reasons beyond his control, his act must be qualified as attempted murder. It is the subjective side that makes it possible to distinguish crimes dangerous to life or health from crimes against life and health" [10].

The subject of crimes dangerous to life or health also has its own characteristics. The subject of these crimes will have general marks as well as special subject marks. For example, there are symptoms of a special subject in criminal abortion (abortion), improper performance of one's duties related to the profession, endangerment.

The main issue in developing the concept of crimes dangerous to life or health is the concept of risk. The concept of danger represents a possible threat to the life or health of the victim, depending on the reality of the possible consequences.

"Danger is any event that threatens human life and health. Risk is a quantitative and qualitative factor, and its duration can have a negative effect on a person, cause acute and chronic occupational diseases, physical injuries of various degrees, deterioration of the quality of life, and death of the victim" [14].

Risk is the central concept of life safety, which consists of any event that threatens human life and health. In a broad sense, the concept of risk is an adverse effect of something on this or that object (organism, device, organization), as a result of which the quality, development, and functioning of the object change in a negative way.

Signs describing the danger are:

- endangers the life and health of living objects;
- has the potential to harm health;
- harms the conditions of normal functioning of the human body.

The following types of danger can be distinguished in crimes dangerous to life or health:

- according to the source of origin - physical, epidemiological or other risk;
- as a result - danger to life, danger to health.

The concept of danger means the possibility of property (material), physical or moral damage to a person, society and the state. Risk is a situation in which processes and events can cause injury to a person, material damage, and a catastrophic effect on the environment [15]. In other words, danger is a threat to a person, his life or health.

It should be noted that at the root of the danger lies the uncertainty associated with the unknown, lack of information. As R. T. Yuldashev noted, "many random factors affect the consequences of a risk, and as a result of them, the probability of one or another consequences increases" [16].

"Danger is an objective law explained by the processes of quantitative and qualitative changes in the mega, macro, meso and micro environment perceived as a threat to vital human interests. According to its origin, probability level, the risk has a natural and social origin as an intentional threat, and can be real and probable" [17].

In crimes dangerous to life or health, there is a risk of harming the life or health of the victim. The actions of the accused in these crimes pose a real danger to the life or health of the victim. In some cases, regardless of the method of committing the crime, it is recognized as a danger by the legislator (sexual intercourse and HIV infection), and in other cases, it is determined by the investigation and the court (threatening to kill, endangering).

On the basis of the above, it is possible to give an author's definition of life or health-threatening crimes as follows: "a social crime that causes a real danger to the life or health of another person, causes such a danger, or does not take measures to eliminate it dangerous acts".

Different opinions have been expressed in the literature regarding the classification of crimes that are dangerous to life or health. It should be noted that when classifying crimes that are dangerous to life or health, most criminal law experts suggest dividing these crimes into crimes that are dangerous to life or health, which are committed with or without violence, depending on the method of committing the crime [18].

For example, a group of authors divide crimes dangerous to life or health into the following types:

- "a) crimes involving violence (killing or threatening to use violence, forcing a person to agree to take his organs and (or) tissues for transplantation) or not (spreading genital or HIV disease/AIDS, illegal abortion);

- b) crimes related to failure to provide assistance or leaving in a situation without assistance" [19].

A.I. Korobeev classifies crimes dangerous to life or health as follows:

- a) damage to health characterized by specific consequences (genital or HIV infection);

- b) violently putting life and health in a dangerous situation (threatening to kill or use violence, forcing a person to agree to take his organs and (or) tissues for transplantation);

- v) leaving life and health in a dangerous situation without violence (putting at risk, forcing a woman to artificially abort her fetus) [20].

Yu.L. Sandjiev distinguishes the following types of crimes dangerous to life or health:

- 1) life or health-threatening crimes committed in extenuating circumstances;

- 2) crimes related to intimidation with harm to health;

- 3) crimes related to failure to provide assistance or leaving in a helpless situation"

[21].

And N.I. Vetrov indicates "crimes dangerous to life or health as a type of crime against health in a broad sense" [22].

N.K. Semerнева divides crimes dangerous to life or health into the following types according to the subject:

1) crimes related to endangerment (forcing a person to agree to take her organs and (or) tissues for transplantation, forcing a woman to abort her fetus artificially, criminal abortion (abortion);

b) crimes related to failure to provide assistance (improper performance of professional duties, endangerment) [23].

The above analysis allows to conditionally classify crimes dangerous to life or health as follows:

a) by object:

1) life-threatening crimes (threatening to kill or use violence, sexually transmitted diseases or HIV/AIDS);

2) crimes dangerous to health (criminal abortion, forcing a woman to abort her fetus artificially, forcing a person to agree to take her organs and (or) tissues for transplantation);

b) according to the subject:

1) life or health-threatening crimes with symptoms of a special subject (threatening to kill or use violence, forcing a woman to abort her fetus artificially, forcing a person to agree to take her organs and (or) tissues for transplantation, etc.);

2) crimes dangerous to life or health, which do not require the presence of symptoms of a special subject (criminal abortion, improper performance of one's duties due to the profession);

c) according to the method of committing the crime:

1) life or health-threatening crimes committed using violence (killing or threatening to use violence, forcing a woman to abort her fetus artificially, forcing a person to agree to take her organs and (or) tissues for transplantation);

2) life or health-threatening crimes committed without the use of violence (genital or HIV disease/AIDS, criminal abortion, improper performance of professional duties, endangerment).

Summing up from the above, the following conclusions can be put forward regarding the issues of responsibility for crimes dangerous to life or health:

First of all, crimes dangerous to life or health were defined by the author as follows: "socially dangerous that causes a real danger to the life or health of another person, causes such a danger, or does not take measures to eliminate it actions";

secondly, crimes dangerous to life or health are conditionally classified as follows:

a) by object:

1) life-threatening crimes (threatening to kill or use violence, sexually transmitted diseases or HIV/AIDS);

2) crimes dangerous to health (criminal abortion, forcing a woman to abort her fetus artificially, forcing a person to agree to take her organs and (or) tissues for transplantation);

b) according to the subject:

1) crimes dangerous to life or health with symptoms of a special subject (criminal abortion (abortion), improper performance of one's duties due to the profession);

2) life- or health-threatening crimes that are not required to be symptoms of a special subject (threatening to kill or use violence, forcing a woman to abort her fetus artificially, forcing a person to agree to take her organs and (or) tissues for transplantation, etc.);

c) according to the method of committing the crime:

1) life- or health-threatening crimes committed using violence (killing or threatening to use violence, forcing a woman to abort her fetus artificially, forcing a person to agree to take her organs and (or) tissues for transplantation);

2) life or health-threatening crimes committed without the use of violence (genital or HIV disease/AIDS, criminal abortion, improper performance of professional duties, endangerment).

CONCLUSION

In conclusion, this analysis of crimes dangerous to life or health reveals their multifaceted nature, encompassing actions that, while not always resulting in direct harm, pose significant risks to individual well-being and societal health. The classification of these crimes by object, subject, and method underscores the complexity of legal interpretations and the necessity for nuanced legal frameworks that adequately address the threats they represent. The implications of this study extend to the broader discourse on human rights, particularly the right to health, emphasizing the state's responsibility to protect individuals from such dangers. Furthermore, the findings suggest a critical need for further research into the efficacy of existing laws and the development of targeted preventive measures, particularly in the context of emerging public health challenges and evolving societal norms. Such inquiry will be essential in informing policy reforms and enhancing the legal system's responsiveness to the risks posed by these crimes.

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