


SOME ASPECTS OF THE OBJECT AND SUBJECT OF THE CORPUS DELICTI PROVIDED FOR IN ARTICLE 273 OF THE CRIMINAL CODE OF THE REPUBLIC OF UZBEKISTAN

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Article Info	ABSTRACT
<p>Article history: Received Sep 15, 2024 Revised Sep 18, 2024 Accepted Oct 15, 2024</p> <p>Keywords: <i>Narcotic Drugs, Psychotropic Substances, Analogues Of Narcotic Drugs And Psychotropic Substances, Precursors, Pre- Precursors</i></p>	<p>This article investigates the object and subject of the corpus delicti outlined in Article 273 of the Criminal Code of the Republic of Uzbekistan, focusing on the legal ramifications surrounding drug-related offenses. General Background: The increasing prevalence of narcotic drugs and psychotropic substances has prompted legal reforms to address drug-related crimes effectively. Specific Background: Article 273 identifies various categories of illicit substances, including narcotic drugs, psychotropic substances, and their analogues, along with precursors used in their production. Knowledge Gap: However, the absence of a comprehensive list of drug analogues creates ambiguity regarding legal responsibility, complicating the prosecution of offenders under this article. Aims: This study aims to elucidate the generic, specific, and immediate objects of the crime, while critically assessing the implications of undefined analogues in the context of legal accountability. Results: The findings reveal that the lack of clarity regarding the classification of drug analogues may hinder the enforcement of Article 273, resulting in potential challenges in ensuring justice. Novelty: This research contributes to the existing body of knowledge by highlighting the necessity for a precise legal framework that encompasses all forms of narcotic substances and their analogues. Implications: The insights derived from this analysis underscore the urgent need for legislative reform to establish clear definitions and lists of drug analogues, thereby enhancing the effectiveness of the legal system in combating drug-related crimes and protecting public health.</p> <p style="text-align: right;">This is an open-access article under the CC-BY 4.0 license.</p> 

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INTRODUCTION

The exact qualification of a crime depends on the correct identification of its object, since it is the object that causes the public danger of criminal encroachment. In

accordance with the generic and specific objects of crimes in the Criminal Code of the Republic of Uzbekistan in 1994, sections and their chapters of the Special part of the Criminal Code were constructed.

The generic object of crimes in the field of illicit trafficking in narcotic drugs, psychotropic substances or their analogues should be recognized as public relations that develop in relation to public safety in a broad sense (Section 6 (Crimes against public safety and public order) The special part of the Criminal Code of the Republic of Uzbekistan). Security of this kind means a state of protection of the vital interests of the individual, society and the state from internal and external threats. By its nature, crimes that constitute illicit trafficking in narcotic drugs or psychotropic substances pose both an internal and external threat to security, since they encroach on the relations of the whole society, all citizens.

The crime provided for in Article 273 of the Criminal Code of the Republic of Uzbekistan is included in Chapter 19 (Crimes constituting illicit trafficking in narcotic drugs or psychotropic substances) of the Special part of the Criminal Code. Thus, the specific object is the relations in the sphere of trafficking in narcotic drugs, their analogues, psychotropic substances and precursors.

The main direct object of the corpus delicti provided for in Article 273 of the Criminal Code of the Republic of Uzbekistan is public relations in the sphere of trafficking in narcotic drugs, their analogues of psychotropic substances and precursors. The optional object is public health[1]. If we talk about the main object, then in this case the encroachment is carried out primarily not on the health of the population, but on the legal turnover of narcotic drugs and psychotropic substances, which is defined in the Law of the Republic of Uzbekistan dated August 19, 1999 No. 813-I "On narcotic drugs and psychotropic substances"[2]. We believe that the health of the population is not optional, but an additional object of this corpus delicti. The public danger of this corpus delicti is such that it undermines not only the health of a particular individual who uses narcotic drugs, psychotropic substances or their analogues, but also the overall health of the entire population.

Public health is one of the integral objects of criminal law protection under national and international legislation. Thus, the Convention on Psychotropic Substances, concluded on February 21, 1971 in Vienna, notes that taking care of the health and well-being of the population is one of the most important state tasks[3]. The abuse of narcotic and psychotropic substances is an urgent social problem of any State, in view of which the latter should take effective measures to combat illicit trafficking. In accordance with the UN Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances, concluded on December 20, 1988 in Vienna, illicit trafficking in narcotic drugs and psychotropic substances has a negative impact on cultural, economic, and political processes taking place in society[4].

METHODS

The method employed in this study involves a comprehensive analysis of the legal framework surrounding Article 273 of the Criminal Code of the Republic of Uzbekistan, focusing on the object and subject of the *corpus delicti*. This analysis is conducted through a doctrinal approach, utilizing primary legal texts, scholarly articles, and relevant international conventions to contextualize the Uzbek legal provisions within broader narcotics control efforts. A comparative analysis is also employed to identify gaps and inconsistencies in the definitions of narcotic drugs, psychotropic substances, and their analogues, as outlined in national law versus international standards. Additionally, case law and judicial practices are reviewed to illustrate how these legal definitions are interpreted and applied in practice. This multifaceted approach allows for a thorough examination of the complexities and challenges in prosecuting offenses related to illicit trafficking in drugs, ultimately contributing to the formulation of recommendations for legislative improvements and enhanced regulatory clarity.

RESULTS AND DISCUSSION

The crime provided for in Article 273 of the Criminal Code of the Republic of Uzbekistan has its own specifics in terms of the subject matter of the crime. The subject of a crime is an independent feature of the *corpus delicti*, which can be defined as a material or non-material phenomenon provided for by criminal law, through the influence of which harm is caused or a threat of its infliction is created to the object[5]. So, according to S. V. Zemlyukov, the object is that part of the object of encroachment, in relation to which the criminal is directly affected. He defines the subject of a crime as "... a material or non-material good, about which there is a public attitude protected by criminal law[6]. However, it should be noted that the criminal law establishes as a sign of the composition of many crimes objects with dangerous and harmful properties: counterfeit money, securities (Article 176), weapons, explosives, explosive devices (Article 248), pornographic products (Article 130), etc. Such items include narcotic drugs, psychotropic substances, and their analogues specified in article 273 of the Criminal Code of the Republic of Uzbekistan.

Objects characterized by harmful properties are not included in the structure of public relations protected by criminal law, and therefore cannot be recognized as the subject of a crime in its narrow sense. In this regard, it becomes necessary to determine their different meaning as part of the crime. The literature suggests rather controversial solutions. Some researchers are forced to admit that dangerous objects must be considered a means of committing a crime[7]. Other authors consider it possible to identify and distinguish two independent features — the actual "object of the crime", which refers to the object, and the "object of the crime", which is part of the objective side of the crime, to which all dangerous objects belong[8].

At the same time, according to V. Ya. Tation, who justified the broad concept of the subject, the subject of a crime should be considered any things with "... certain

properties of which the law associates the presence of signs of a crime in the actions of a person." The subject of the crime in some cases may coincide with the subject of public relations, but may also include those things that are not part of the protected public relations, since they have harmful properties[9].

The precise definition of the subject of the crime makes it possible to correctly qualify the act related to the illegal trafficking of these substances. The specificity of such items is that they are withdrawn from free civil circulation, their turnover is strictly regulated and tightly controlled.

So, what are the subjects of the crime in question under Article 273 of the Criminal Code of the Republic of Uzbekistan. It should be noted that in relation to this article, it is necessary to identify several objects of crime, i.e. those material objects about which the crime is committed:

Firstly, narcotic drugs and psychotropic substances. Secondly, analogues of these drugs and substances. Thirdly, the precursors.

In accordance with article 3 of the Law of the Republic of Uzbekistan dated August 19, 1999 No. 813-I "On narcotic drugs and psychotropic substances": narcotic drugs — substances of synthetic or natural origin, narcotic drugs and plants included in the lists of narcotic drugs and subject to control in the Republic of Uzbekistan; psychotropic substances — substances of synthetic or natural origin included in the list of psychotropic substances and subject to control in the Republic of Uzbekistan; analogues of narcotic drugs and psychotropic substances — substances of synthetic or natural origin, similar in chemical structure and properties to narcotic drugs and psychotropic substances, the psychoactive effect of which they reproduce; precursors — substances used for the manufacture of narcotic drugs, their analogues and psychotropic substances included in the list of precursors and subject to control in the Republic of Uzbekistan. It should be noted that in the Report of the International Narcotics Control Board for 2023, concepts such as "precursors" are also used: «Currently, the urgent macro-level challenges to international drug control are the misuse, diversion from domestic trade and evolution of designer and pre-precursor chemicals and new psychoactive substances, including nonmedical synthetic opioids, that are not under international control. At the micro level, the Internet and especially social media, in combination with encryption technologies, have increased the availability of drugs on the illicit market and made it more difficult for law enforcement authorities to prevent drug trafficking»[10].

The Law also determines the lists of narcotic drugs and psychotropic substances subject to control in the Republic of Uzbekistan, depending on the control measures applied by the State: List of narcotic drugs, the turnover of which is prohibited in the Republic of Uzbekistan (List I); List of narcotic drugs, the turnover of which is limited in the Republic of Uzbekistan (List II); List of psychotropic substances, the turnover of which is limited in the Republic of Uzbekistan (List III); List of precursors, the turnover of which is limited in the Republic of Uzbekistan (List IV)[11].

It should be noted that the law does not say anything about any lists of analogues. Consequently, difficulties may arise regarding analogues from the point of view of determining the subject of a crime, since a thorough examination is required to determine the identity of the effect of analogues on the human body. Although part 2 of Article 5 of this Law states that the trafficking of analogues of narcotic drugs and psychotropic substances is prohibited in the Republic of Uzbekistan, it is not entirely clear which regulations formalize the corresponding ban. We believe that this may lead to difficulties in resolving the issue of liability of persons under article 273 of the Criminal Code of the Republic of Uzbekistan.

In addition, based on the above definition of analogues of narcotic drugs and psychotropic substances, the following signs of analogues of narcotic drugs and psychotropic substances can be distinguished: 1) substances of synthetic or natural origin; 2) substances not included in the List of narcotic drugs, psychotropic substances and precursors subject to control in the Republic of Uzbekistan; 3) substances reproducing the psychoactive effect of substances included in the List of narcotic drugs, psychotropic substances and precursors subject to control in the Republic of Uzbekistan; 4) substances whose chemical structure is similar to the chemical structure of narcotic drugs and psychotropic substances, the psychoactive effect of which they reproduce; 5) substances whose properties are similar to the properties of narcotic drugs and psychotropic substances, the psychoactive effect of which they reproduce; 6) substances prohibited for circulation in the Republic of Uzbekistan in accordance with the established procedure.

Based on this, in order to classify a substance as analogues of narcotic drugs and psychotropic substances, it is necessary to conduct an examination, which determines the similarity of the chemical structure and psychoactive properties of the sample under study with the structure and properties of narcotic drugs or psychotropic substances. Based on the results of the study, experts may conclude that the substance under study is an analogue of a specific narcotic drug or psychotropic substance. However, in fact it will be a different substance, because the main difference between analogues of narcotic drugs and psychotropic substances and those drugs and substances that are controlled in the List of Narcotic drugs, psychotropic substances and Precursors subject to control in the Republic of Uzbekistan is their inclusion or non-inclusion in the List.

This is what gives rise to the problem of qualifying acts committed against analogues. Thus, in the resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan "On judicial practice in criminal cases related to illicit trafficking in narcotic drugs, their analogues and psychotropic substances"[12] in p. 18 it is indicated that the decision on the assignment of narcotic drugs, their analogues, psychotropic substances to a certain size falls within the competence of the bodies of inquiry, preliminary investigation and court, which should be guided by the sizes specified in the annexes to the resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated November 12, 2015 No. 330 "On improving the procedure for import, export and transit of narcotic drugs, psychotropic substances and precursors through the territory of the Republic of

Uzbekistan, as well as control over their turnover"[13]. That is, in the criminal legal assessment of an act related to the illegal trafficking of analogues, the difficulty arises when determining its size for the purposes of Article 273 of the Criminal Code of the Republic of Uzbekistan.

So, if, according to the results of the study, it is established that the substance is an analogue of a certain narcotic drug or psychotropic substance, then the amount of the drug established by Resolution No. 330 of the Cabinet of Ministers of the Republic of Uzbekistan dated November 12, 2015 "On improving the procedure for the import, export and transit of narcotic drugs, psychotropic substances through the territory of the Republic of Uzbekistan will be applied when qualifying this act. substances and precursors, as well as control over their turnover." If, according to the results of the study, only similarity with a certain line of narcotic drugs or psychotropic substances is established, the law enforcement officer is faced with the question: the size of which substance from this line will be used to determine the size of the analogue. We believe that the size that does not worsen the situation of the perpetrator should be applied. In the same cases, when the similarity of the substance under study with narcotic drugs or psychotropic substances has not been found, that is, a new substance has actually been established, its attribution to analogues is impossible due to the lack of a sign of similarity in chemical structure.

In addition, it is impossible to correctly qualify the act with this substance, since it is not possible to establish the criminal law size of the substance, that is, it is impossible to establish a small, exceeding small and large size.

Another problem related to the subject of illicit trafficking in narcotic drugs and psychotropic substances is the establishment of their size. Acting as the subject of a crime, narcotic drugs, psychotropic substances and their analogues are a material object of a certain type, having volume, weight, that is, certain qualitative and quantitative characteristics. The amount of a narcotic drug or psychotropic substance is one of the conditions for criminal liability and is essential for the legal assessment of the committed act.

Small, exceeding small and large sizes are constructive signs when committing acts provided for in Article 273 of the Criminal Code of the Republic of Uzbekistan. At the same time, it should be borne in mind that for the illegal manufacture, acquisition, storage, transportation or shipment of narcotic drugs, their analogues and psychotropic substances without the purpose of marketing in small amounts, the perpetrators in all cases are subject to administrative responsibility (article 56 of the Code of the Republic of Uzbekistan on Administrative Responsibility). If these actions are committed for the purpose of sale, the act is subject to qualification under the first part of Article 273 of the Criminal Code.

In addition, attention should be paid to those situations when these substances are in the mixture. This issue is resolved as follows: in the second paragraph of paragraph 18 of the resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan "On

judicial practice in criminal cases related to illicit trafficking in narcotic drugs, their analogues and psychotropic substances", it is clarified that in cases where a narcotic drug or psychotropic substance is mixed with some or a neutral substance (filler), the size of a narcotic drug or psychotropic substance should be determined without taking into account the amount of neutral substance (filler) contained in the mixture.

Summing up the above, it can be concluded that in this case the encroachment is carried out primarily not on the health of the population, but on the legal turnover of narcotic drugs and psychotropic substances, which is defined in the Law of the Republic of Uzbekistan dated August 19, 1999 No. 813-I "On narcotic drugs and psychotropic substances" and public health. It is not an optional, but an additional object of this corpus delicti. The subject of the crime is an obligatory element of the corpus delicti provided for in Article 273 of the Criminal Code of the Republic of Uzbekistan, and allows you to establish the presence or absence of corpus delicti, as well as to distinguish related crimes. In addition, in the criminal legal assessment of an act related to the illegal trafficking of analogues, the difficulty arises in determining its size for the purposes of Article 273 of the Criminal Code of the Republic of Uzbekistan.

CONCLUSION

In conclusion, this analysis elucidates the intricate relationship between the object and subject of the corpus delicti as outlined in Article 273 of the Criminal Code of the Republic of Uzbekistan, emphasizing that the primary encroachment is on the legal turnover of narcotic drugs and psychotropic substances rather than solely on public health, which is treated as an additional object of concern. The findings indicate significant challenges in accurately defining and prosecuting offenses involving drug analogues, primarily due to the lack of comprehensive regulatory frameworks and precise classifications. This ambiguity not only complicates legal accountability but also undermines the effectiveness of drug control measures. Consequently, there is a pressing need for legislative reform to establish clear definitions and guidelines regarding analogues to facilitate consistent legal interpretations and ensure public safety. Further research should focus on the development of a standardized approach for the classification and regulation of drug analogues, as well as the impact of these substances on public health and safety, to enhance the efficacy of law enforcement and public health initiatives in combating drug-related offenses.

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