

The Effectiveness of Criminal Texts in Establishing Intentional Criminal Liability for Acts of Transmitting Epidemic Diseases– A study in Algerian legislation –

فعالية النصوص الجزائية في قيام المسؤولية الجنائية العمدية عن أفعال نقل عدوى الأمراض الوبائية _دراسة في التشريع الجزائري _



Linda Laouadi ^{1*}, Souad Adjaoud ²

¹ Laboratory of Comparative Law, Social Studies and Foresight, University of Echahid
Cheikh Larbi Tebessi, Tébessa, Algeria

linda.laouadi@univ-tebessa.dz

² Laboratory of Comparative Law, Social Studies and Foresight, University of Echahid
Cheikh Larbi Tebessi, Tébessa, Algeria

souad.adjaoud@univ-tebessa.dz

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Abstract:

As a widespread phenomenon, epidemics have become a criminal means of causing harm and death. It is therefore understandable that the legal framework, especially in the area of criminal law, is influenced by this reality. This is particularly evident in the challenges posed by the intentional transmission of epidemic infectious diseases, raising serious doubts regarding the attribution of criminal responsibility, especially considering the lack of clear legal provisions criminalizing acts related to the spread of such infectious diseases.

In order to effectively convey the details to be considered in this study, it was essential to discuss the crime of intentional bodily harm as defined in Algerian law and link it to the transmission of infectious diseases. The focus of the study was to demonstrate the degree of consistency between the enforcement of these two legal aspects.

The findings suggest that existing criminal laws could be applied to combat the intentional transmission of infectious diseases. However, as this issue presents legal challenges that require separate legislation, it would be beneficial for the Algerian parliament to enact specific legislation criminalizing the intentional transmission of such diseases.

key words:

confession, criminal liability, crime, infection, epidemic disease.

ملخص:

لقد أصبح الاعتداء على الأشخاص بواسطة الأمراض الوبائية من القضايا الشائعة في الأوساط الاجتماعية، لذلك كان من الطبيعي تأثر الحياة القانونية بذلك-خاصة على صعيد القانون الجنائي- ونخص بذلك ما أفرزه فعل نقل عدوى الأمراض الوبائية من تساؤلات تتعلق بتحديد المسؤولية الجنائية خاصة في ظل غياب نصوص تجرime خاصة تجرم أفعال نقل عدوى الأمراض الوبائية. وبغرض حسن طرح الجزئيات التي ابتغت الدراسة الوقوف عندها اشترطت هاته الأخيرة الحديث عن جرائم الاعتداء ضد الأشخاص المرتكبة بشكل عمدي في التشريع الجزائري وإسقاطها على فعل نقل عدوى الأمراض الوبائية، حيث كرست الجهود لبيان مدى توافق تطبيق الأولى على الثانية. حيث اختتمت الدراسة بالقول بإمكانية تطبيق النصوص التجريمية محل الدراسة على فعل النقل العمدي لعدوى الأمراض الوبائية، وبالرغم من ذلك حبذا ولوسن المشرع الجزائري نصوص خاصة بتجريم أفعال للنقل هذه لعدوى الأمراض الوبائية لوجود إشكاليات قانونية تطل هذا الفعل تحتاج لقواعد قانونية خاصة. الكلمات المفتاحية: إقرار، المسؤولية الجنائية، جريمة، عدوى، مرض وبائي...

* Corresponding Author

Introduction:

The right to life and personal safety is a fundamental principle upheld by major religious doctrines, including Islamic law, and is enshrined in both international and national legal frameworks. Any violation of an individual's bodily integrity or right to life constitutes a criminal act, particularly as the methods of perpetrating such crimes have evolved to encompass the transmission of infectious diseases, such as viruses, bacteria, and parasites. These agents are often insidious, invisible, and microscopic, making them not only perilous but also challenging to detect and prove in a legal context.

The deliberate act of spreading epidemic diseases to others presents significant legal challenges, particularly concerning the acknowledgment of the perpetrator's criminal liability under The Algerian law. This issue is further complicated by the lack of specific criminal provisions addressing the transmission of epidemic diseases.

The topic importance:

In emphasizing the importance of the study topic, it is essential to recognize from the beginning that research concerning assaults involving epidemic diseases is characterized by a long-term perspective. These topics are not confined to the current context of the study; they also encompass potential future crises. Consequently, assessing whether general criminal laws can be applied to acts of assault involving epidemic diseases at this juncture allows us

The Effectiveness of Criminal Texts in Establishing Intentional Criminal Liability for Acts of Transmitting Epidemic Diseases – A study in Algerian legislation –

to evaluate their effectiveness in addressing such offenses and to determine if there is a need for specific legislation targeting the transmission of epidemic diseases.

The topic objectives:

The objective of this research is to explore how the general principles governing intentional harm to an individual's life and physical well-being can be relevantly applied to the act of transmitting epidemic diseases, particularly in the absence of explicit criminal statutes addressing such actions.

The problematic:

Is it possible to establish criminal liability for the intentional transmission of epidemic diseases by referencing the assault offenses defined in the Algerian Penal Code?

Methodology:

During the study phase of this research, two foundational approaches were used based on their relevance and suitability to the research topic. The first approach was descriptive, focusing on clarifying and defining the key concepts associated with the research to eliminate any potential ambiguities. The second was analytical, which aimed to provide a thorough examination of the details pertinent to the study, while also offering insights that would contribute to the overall research objectives.

The outlines:

The suggested study plan consists of two main sections. The first section focuses on the application of intentional assault laws concerning life in relation to the transmission of epidemic diseases. The second section examines the implications of intentional harm laws as they pertain to the act of spreading epidemic diseases.

Section One: The relevance of intentional assault on life in the context of the transmission of epidemic diseases act

In order to determine the criminal liability of individuals who intentionally endanger the lives of others by spreading infectious diseases, particularly in the absence of explicit legal provisions addressing such actions, an analysis is conducted on how the offenses of premeditated murder and poisoning may be relevant to these cases. The first section focuses on the application of premeditated murder charges in relation to the act of transmitting epidemic diseases, while the second section examines the potential for classifying the act of spreading these diseases as poisoning.

1. The consideration of premeditated murder in relation to the act of intentionally spreading infectious diseases

This following study examines whether the crime of premeditated murder effectively increases criminal liability for the act of transmitting epidemic diseases.

1.1. Premeditated murder crime - concept and elements -

Murder is characterized as an act that violently infringes upon human life, culminating in the loss of a soul.¹ Some interpretations suggest that it encompasses any action, whether positive or negative, executed by an individual with the intent to extinguish another's life.

An alternative perspective defines murder specifically as the act of taking the life of an innocent individual. This viewpoint, however, faces criticism for its association of murder solely with the death of an innocent and virtuous person, implying that the act is not applicable to those who may be deemed unjust, malevolent, or culpable. Such a notion is fundamentally flawed, as murder constitutes an attack on the essence of a person, irrespective of their moral standing, gender, or social and educational background.

The act of causing death can stem from either a deliberate intention or an accidental occurrence. This distinction gives rise to two categories of crime: premeditated murder and manslaughter. However, this analysis will focus solely on the intentional aspect of these acts. In this context, premeditated murder is characterized, as outlined in Article 254 of the Algerian Penal Code, as the deliberate act of ending a human life.

To establish the crime of premeditated murder, the act must be directed at a living individual at the moment it occurs. The law prioritizes the protection of human life, which is central to the offense of murder. Therefore, it does not matter whether the victim is suffering from an illness, is nearing death, or is afflicted by a serious, terminal condition.²

Additionally, the victim's nationality, gender, age, health status, or economic situation—whether they are a citizen or a foreigner, male or female, elderly or a child, ill or well, affluent or impoverished—holds no relevance in this context.

The criminal act of premeditated murder can manifest as either positive behaviour, characterized by actions taken with full intent, such as executing a

(1)- Mohammed Sobhi Nadjm, *Crimes against Persons*, Dar El Thakafa for Publishing and Distribution, Amman, Jordan, 2012, p.11.

(2)- Faouzia Abdessattar, *Explanation of the Penal Code, Special Section, According to the Latest Amendments*, Fourth Edition, Dar El Nahda El Arabia, 2017, p.362.

The Effectiveness of Criminal Texts in Establishing Intentional Criminal Liability for Acts of Transmitting Epidemic Diseases – A study in Algerian legislation –

physical movement that legal statutes dictate must be performed, or as negative behaviour (complete voluntary omission), which involves a deliberate choice to refrain from fulfilling legal obligations.¹

Premeditated murder can manifest through active engagement, exemplified by the act of directing a firearm at a victim and subsequently discharging it, resulting in the victim's death. Conversely, a physician who neglects to administer an antidote to a patient suffering from poisoning is also deemed to have committed premeditated murder, albeit through passive conduct, as this individual fails to fulfil a legal obligation to provide necessary medical care.

The actions of the perpetrator, whether detrimental or beneficial, culminate in the loss of the victim's life, a phenomenon legally recognized as the criminal result, which constitutes the second component of the material element. This result is characterized as the consequence arising from the execution of the criminal act, necessitating the establishment of a causation between the perpetrator's actions and the resultant loss of life.

It is essential to demonstrate that the outcome is directly attributable to the criminal conduct, with the understanding that the act leading to the fatality is carried out with the perpetrator's awareness of the crime's specifics and the implications of their actions, executed with full autonomy and intent. This understanding is crucial for establishing the mental element in its intentional aspect.

1.2. Assigning the offense of premeditated murder to the act of assault through the dissemination of infectious diseases

Given the lack of a specific legal framework that categorizes and penalizes the act of assault through the transmission of infectious diseases, it became essential to establish a suitable classification for this criminal behaviour. Within the various classifications of crimes, premeditated murder emerges as a relevant consideration. This analysis aims to explore the feasibility of classifying the act of transmitting infectious diseases under the umbrella of premeditated murder. Consequently, the necessary elements that must be present for an act of premeditated murder involving the transmission of epidemic diseases will be examined.

(1)- Sadek Leila Ali Houcine, *The Crime of Human Trafficking, Especially Women, as a Cross-Border Crime, A Comparative Study of the Arabian Gulf*, Master Thesis, Middle East University, Jordan, 2011, p.79.

The offense of premeditated murder through the transmission of an infectious disease involves the execution of a criminal act, which can be either active or passive, where the offender employs the epidemic disease as a method to intentionally cause the death of a victim who is alive and not infected by the disease. This act must lead to the victim's death, establishing a necessary causation between the perpetrator's actions and the outcome of the victim's demise.

The challenge associated with the crime of premeditated murder through the transmission of an epidemic disease primarily revolves around the issue of evidence. Specifically, it is difficult to establish a direct link between the actions taken and the resulting epidemic disease. Furthermore, demonstrating that the victim was in good health prior to the infection that led to their demise poses a significant hurdle. For instance, how can one conclusively show that the victim did not have the Coronavirus, which could have been the underlying cause of their death?

Furthermore, the complexity surrounding causality is heightened by the interplay of numerous factors that can lead to death. This presents a significant challenge in attributing the crime to the offender, as identifying the perpetrator in such cases proves to be quite difficult.

Another challenge arises from the latency between the criminal act and the eventual outcome, particularly in cases involving the transmission of AIDS. It is important to note that the victim is often also an AIDS carrier, and the virus does not result in immediate fatality; rather, it can take years for the effects to manifest. In this context, proactive measures emerge as a crucial strategy to address the issue effectively.

Although the challenges related to evidentiary requirements are considerable, they can be navigated and resolved in various ways, depending on the specifics of each individual case.

The components that define the material aspect of engaging in criminal behaviour, realizing the criminal outcome, and establishing a causation between these factors are inadequate for categorizing the act of spreading infectious diseases as premeditated murder. Instead, it is essential for the elements of knowledge and intention to be present, as these constitute the element of criminal intent, which embodies the moral dimension inherent in premeditated offenses.

Knowledge about a crime necessitates a comprehensive awareness of all its components, beginning with the condition of the victim, who must be free

The Effectiveness of Criminal Texts in Establishing Intentional Criminal Liability for Acts of Transmitting Epidemic Diseases – A study in Algerian legislation –

from any contagious diseases. Additionally, it is essential to identify the specific methods used in the crime¹ that resulted in the victim's demise, alongside the requirement that the perpetrator acted with free will and autonomy in executing this act.

In conclusion, our analysis of this section leads us to determine that the offense of premeditated murder may be linked to the act of spreading infectious diseases, resulting in death due to such transmission. Nevertheless, in instances where there is a delay in the outcome or if the result is not immediate, categorizing the act as an attempt may be the most appropriate approach to address the problematic. e.g.

France has seen such criminal form of transmitting scourge maladies, where for six a long time, the 42-year-old Sikokamara purposely transmitted the dangerous AIDS infection to an expansive number of young ladies after making them accept that he did not endure from any irresistible illness. Be that as it may, one of his casualties recorded a complaint against him with respect to the culprit transmitting this infection to the casualty, and his act was classified as an endeavoured planned kill by ambush with an scourge infection.²

2.The consideration of poisoning offence in relation to the act of intentionally spreading infectious diseases

The following study examines the impact of poisoning as a criminal offense on the legal accountability associated with the transmission of epidemic diseases.

2.1. Poisoning crime - concept and elements

Article 260 of the Algerian Penal Code addresses the offense of poisoning, stipulating that any individual who endangers another's life by administering toxic substances, regardless of the method used (in any way), is deemed to have perpetrated the crime of poisoning. This holds true irrespective of whether the act results in the victim's death.³ Consequently, poison is

(1)- Mamdouh Khalil El-Bahr, *Criminal Liability Arising from Blood Transfusion - A Comparative Study* -, Journal of Law for Legal and Economic Research, Alexandria University, New University House, Egypt, 2001, p.235.

(2)- Oualid Ali Alia, *Transmission of Infectious Diseases between Criminal liability and Protection of the Infected*, PhD thesis, Faculty of Law, Department of Criminal Law, Mansoura University, Egypt, 2020,

(3)- Article 260 of Order N°.66-156 dated 18 Safar 1386 corresponding to 8 June 1966, which includes the Penal Code, as amended and supplemented.

characterized as a harmful substance that, when introduced into the human body in sufficient quantities, can cause injury and potentially result in fatality.¹

It can also be defined as a toxic substance characterized as one that has the potential to interfere with the natural biological processes of a living organism, either by inflicting damage or leading to fatality.²

Poisoning is defined as the manifestation of symptoms in an individual following exposure to toxic substances. Criminal poisoning, on the other hand, is a form of intentional criminal activity aimed at deliberately causing harm or death to another individual through the administration of a toxic agent.

According to the perspective of the Algerian legislator, poisoning is defined as any substance that can cause death, irrespective of how it is administered or the outcomes it produces.³

Prior to delving into the study of the elements of the crime of poisoning within Algerian law, it is essential to highlight that certain legal systems, including those of the Netherlands, Germany, and Egypt, do not recognize poisoning as a distinct offense. Instead, these jurisdictions categorize it as a variant of premeditated murder.⁴

The Algerian legislator characterizes poisoning as a distinct formal offense, wherein the criminal act involves targeting the life of an individual through the administration of toxic substances that have the potential to result in the victim's death.⁵

In examining the components (elements) of the crime of poisoning, it is essential to begin with the material element, which encompasses the perpetrator's actions involving the application or introduction of harmful substances to the victim. This can occur through various means, including

(1)- Abdelhamid El-Minchari, *Forensic Medicine and its Technical Role in Detecting Crimes*, Dar El-Maaref, Alexandria, 2007, p.677.

(2)- Kadhém El-Mokdadi, *Lectures on Forensic Medicine and Criminal Investigation*, Arab Academy in Denmark, 2008, p.13.

(3)- Adel Boudiaf, *a Brief Explanation of Private Criminal Law*, Numidia for Printing, Publishing and Distribution, Algeria, 2013, p.68.

(4)- See Ahmed Chaouki Abou Khotoua, *Crimes against Persons in the Federal Penal Code of the United Arab Emirates*, First Edition, Publishing House, 1990, p.144.

- Hassanine Ibrahim Salah Abid, *Crimes of Assault on Persons*, Dar El Nahdha El Arabia, 1983, p.56.

(5)- Ahcène Bouskia, *a Brief Introduction to Private Criminal Law*, Dar Houma for Printing, Publishing and Distribution, Algeria, 2013, pp.39-40.

The Effectiveness of Criminal Texts in Establishing Intentional Criminal Liability for Acts of Transmitting Epidemic Diseases – A study in Algerian legislation –

ingestion, inhalation, or absorption, and the techniques employed are diverse and virtually limitless.¹

This conduct could lead to the victim's death, although it is also possible that it may not. Factors contributing to this outcome could include the victim's physiological resistance to the specific poison, the insufficient dosage or improper application of the poison that fails to produce a lethal effect, or other anticipated reasons.

Regardless of whether the poison has taken effect, it does not influence the perpetration of the crime or the determination of the offender's criminal liability, thereby underscoring the necessity for punishment, as this offense is classified as a distinct formal crime.²

This offense is categorized as a deliberate crime, necessitating the presence of criminal intent, as the offender is aware that these substances are hazardous and potentially lethal, yet chooses to engage in the unlawful act willingly.³

2.2. Assigning the offense of poisoning to the act of the dissemination of infectious diseases

As mentioned earlier, the Algerian legal framework, along with comparative legal systems, does not impose restrictions on toxic substances; instead, it specifies that these substances can lead to death, either immediately or over time. This brings forth the inquiry regarding whether the agents liable for epidemic diseases, including viruses, bacteria, and germs, fall under the category of toxic substances as defined in Article 260 of the Algerian Penal Code.

In this context, it was determined that the origins of epidemic diseases stem from toxic agents that can be fatal upon entering an individual's system, as they exert a detrimental influence on the body.

A significant illustration of this is the decision made by the French Court of Cassation on January 10th, 2006, which affirmed the verdict of the Court of Appeal. This ruling resulted in a six-year prison sentence for an individual who engaged in numerous sexual encounters with girls while being aware of his

(1)- Chiheb Bassem, *Crimes against Human Being*, Dar Houma for Printing, Publishing and Distribution, Algeria, 2011, p.40.

(2)- Ahcène Bouskia, *a Brief Introduction to Private Criminal Law*, Part Two, Dar Houma, Algeria, 2007, p.35.

(3)- Sobhi Nedjm, *Explanation of the Algerian Penal Code*, Private Section, Office of University Publications, Algeria, 2000, p.39.

AIDS status, having misled them into believing he was free of any infectious diseases by presenting falsified medical documentation.¹

For the crime of poisoning to occur, the offender must engage in an act that utilizes toxic agents derived from viral, bacterial, or germ sources, with the explicit intention of causing the victim's death. This act can lead to the victim's demise, although survival is also a possibility. Regardless of whether the intended fatal outcome is realized, the act of poisoning is considered a crime as soon as the unlawful action is executed.

The mental component (element) of the offense of poisoning is established by demonstrating the presence of criminal intent, as the offender recognizes the characteristics of the toxic substance and possesses the malicious intent that motivated the commission of the act.²

A thorough examination of the crime of poisoning, particularly in relation to the transmission of epidemic diseases, reveals that this offense plays a significant role in determining the criminal liability of the offender.

The Algerian legislator has made a commendable decision by classifying poisoning as a distinct formal crime that is recognized at the moment the criminal act is executed. This classification is especially pertinent when the toxic agent is microscopic, imperceptible, and poses a substantial threat.

e.g. Attempted felony: poisoning using Corona virus

Any act that produces the infection accessible to the victim, such as showering it within the discuss of his room, blending it with a drink or nourishment that the casualty eats, but which the culprit did not eat or drink.

Section Two: The relevance of harm offence in the context of the transmission of epidemic diseases act

One of the primary interests safeguarded by the law is the protection of human bodily integrity. This legal protection undoubtedly encompasses the entire body, ensuring that it remains free from any potential harm or injury..

Assault, battery, and the administration of harmful substances are offenses that violate an individual's physical integrity. Below are the comprehensive details regarding these crimes.

(1)- Abdelkader Hasni Mahfoudh, *Criminal Liability Arising from Virus Infections*, PhD Thesis, Ain Chems University, Egypt, 2007, p.529.

(2)- Ahmed El-Maasarani, *Criminal Liability for Contaminated Blood Transfusions*, PhD Thesis, Ain Chems University, Egypt, 2004.

1. The consideration of the crimes of intentional assault and battery in relation to the act of intentionally spreading infectious diseases

The following study examines the impact of assault and battery offenses on establishing criminal liability for the transmission of epidemic diseases.

1.1. The offense of intentional assault and battery - concept and elements -

Assault is a legally punishable act due to its impact on the human body. This behaviour does not need to result in visible injuries or require medical attention,¹ as it can occur without leaving any marks.

The definition of assault encompasses any form of contact with the body, whether through force or collision. For instance, one individual may assault another by delivering a slap or by pushing them. Additionally, assault can involve the use of physical objects, such as a stick, vehicle, or any hard item... Importantly, the absence of clear or discernible injuries does not negate the occurrence of assault.²

A wound refers to any cut or tear that occurs in the human body due to friction or impact with a material object.³ This definition encompasses wounds of varying depths and locations, whether they are superficial or profound, external or internal. Additionally, some definitions extend to any disruption of the body's tissues, which can occur in the skin or within internal organs, regardless of the severity. Importantly, the presence of bleeding is not a requisite for classifying an injury as a wound; even a minor scratch qualifies, similar to how a fractured bone is categorized as a wound.

The criminal actions associated with assault and battery involve engaging in behaviours that lead to either physical harm or an attack on another individual, with the offender facing prosecution based on the outcome of their actions. In cases of assault and battery, it is essential to establish the extent of the victim's injuries, which serves as the foundation for prosecuting the offender for either assault or injury. The relationship between the resulting harm and the offender's actions is referred to as the causation.

(1)- Raouf Abid, *Crimes of Assault on Persons and Property*, 8th edition, Dar El Fikr El Arabi, 1985, p.112.

(2)- Omar El-Farouk El-Houssaini, *Explanation of the Penal Code: Private Section on Crimes of Assault on Property and Persons, Special Edition* for Open Education with Special Permission from the Author, 2009-2010.

(3)- Ben Chikh Lahcene, *Memoir on Private Criminal Law*, Fifth Edition, Dar Houma for Printing, Publishing and Distribution, Algeria, 2004, p.62.

The mental element in the crime of assault and battery:

To establish criminal intent in cases of assault and battery, it is essential to demonstrate the presence of intent, which encompasses the elements of criminal intent, specifically knowledge and will. The individual committing the act must be aware that their actions are directed towards compromising the physical safety of the victim, whether through physical violence or battery, and must possess the complete freedom to carry out such actions.¹

1.2. Assigning the offense of the crime of assault and battery to the act of the dissemination of infectious diseases

As mentioned earlier, the offense of assault and battery does not necessitate a particular method for its execution. Any action that leads to the criminal outcome required to substantiate the charges of assault or battery is adequate.

Consequently, assault or battery can manifest through the spread of infectious diseases in various forms, such as when an individual infected with anthrax physically attacks a victim, intending to transmit the disease through the contact and friction that occurs during the altercation.²

The offender must possess an understanding of the methods employed in the commission of the crime and recognize that the intent behind these actions is to compromise the physical safety of the victim by deliberately transmitting an infectious disease.

The analysis presented indicates that the offenses of assault and battery significantly contribute to establishing criminal liability in cases involving the transmission of infectious diseases.

2. The consideration of the crimes of administering of a substance harmful to health in relation to the act of intentionally spreading infectious diseases

The study will examine the impact of the offense of distributing harmful substances on the enhancement of criminal liability associated with the transmission of epidemic diseases.

(1)- Mohammed Ahmed Taha, *Explanation of the Penal Code: Private Section*, Part Two, Crimes of Assault on Persons, p.274.

(2)- Likulia Bolongo, *Droit Spécial*, Volume 1, librairie générale de droit et de jurisprudence, Paris, 1985, p.46.

2.1. The crime of administering of a substance harmful to health – concept and elements -

Article 275 of the Algerian Penal Code defines the offense of administering harmful substances, categorizing such actions as conduct that inflicts damage on the human body, as established by the Algerian legislator.¹

The material component (element) of this offense necessitates the introduction of detrimental substances to the victim, with specific quantities needed to produce an effect. For instance, this could involve administering a harmful substance through an injection, such as using tear gas, or impairing a player's physical performance by mixing Valium into their drinking water. Numerous criminal activities involve the use of harmful substances, and these actions cannot be confined or restricted in any manner.²

The repercussions of administering harmful substances manifest in various forms of illness, which can hinder the victim's ability to work and may lead to disability.

To establish the crime, it is essential to demonstrate a causation between the actions taken and the resulting harm. Furthermore, it is crucial to ensure that the perpetrator is cognizant of the damage inflicted by the substance involved in the offense and that they proceed with full awareness and intent.

2.2. Assigning the offense of the crime of administering of a substance harmful to health to the act of the dissemination of infectious diseases

It has been noted that the origins of epidemic diseases, including viruses, germs, and bacteria, are associated with harmful substances. Given that the law does not specifically define harmful substances and instead relies on judicial interpretation, it can be inferred that the causes of epidemic diseases fall under the category of harmful substances. Consequently, the potential for the perpetrator to utilize these substances to inflict harm on the victim cannot be entirely dismissed.

Given the absence of specific legislation addressing the act of administering pathogens (as harmful substances), which can inflict physical harm on individuals, it is essential to apply existing general laws concerning the administration of harmful substances. This approach effectively addresses the

(1)- Article 265 of the amended and supplemented Algerian Penal Code.

(2)- Fettouh Chadli, *Explanation of the Penal Code - Private Section* -, University Publications House, Alexandria, Egypt, 1996, p.158.

legislative gap and ensures that the perpetrator is held accountable for their actions, thereby preventing any impunity.

Conclusion:

The research entitled “The Effectiveness of Criminal Texts in Establishing Intentional Criminal Liability for Acts of Transmitting Epidemic Diseases in The Algerian legislation” yielded a series of findings and recommendations, which are outlined in the following sections:

Results:

The issue of assault through the transmission of epidemic diseases is a particularly sensitive and intricate matter, intertwining moral, legal, medical, and ethical dimensions. Analysing this topic from the perspective of criminal law is of paramount importance.

Epidemic pathogens, which encompass germs, bacteria, fungi, and viruses, are biological agents that can inflict significant harm on an individual's health and may even lead to fatal outcomes.

In Algeria, the legal framework does not explicitly categorize the act of assault through the transmission of epidemic diseases as a criminal offense, whether such actions are intentional or accidental.

To address the legislative gap regarding assaults involving the transmission of epidemic diseases, it is essential to examine how intentional crimes against individuals align with these actions.

From the researcher's perspective, based on a thorough analysis, it can be concluded that the classification of intentional crimes against individuals—such as premeditated murder, poisoning, administering harmful substances, and physical assault—can be relevant to the act of transmitting epidemic diseases, even in the absence of specific legal provisions.

While applying general legal principles to the transmission of epidemic diseases can be effective, it is advisable to establish specific laws that criminalize such acts, thereby addressing the unique legal challenges and issues that arise in this context.

Recommendations:

We urge the Algerian legislator to establish specific criminal laws addressing the transmission of epidemic diseases through acts of assault.

We call on the Algerian legislator to thoroughly examine the legal issues outlined in this research and to develop robust and effective legal measures to combat this form of crime.

The Effectiveness of Criminal Texts in Establishing Intentional Criminal Liability for Acts of Transmitting Epidemic Diseases – A study in Algerian legislation –

We recommend that the Algerian legislator classify the transmission of epidemic diseases as formal criminal offenses to mitigate challenges associated with proving the methods employed, establishing causation, and addressing other previously identified concerns.

The need of characterizing the lawful substance with a exact definition of the infectious plague illness and classifying scourges in a table concurring to their gravity so that the competent specialists can apply the law accurately and build up the criminal obligation of the culprits.

We propose to the Algerian administrator, when sanctioning criminal writings that rebuff the ambush by transmitting the contamination of scourge infections, to set the foremost extreme unequivocal and coordinate punishments for committing this behaviour.

We recommend to use the encounters of comparative criminal enactment that have priority in managing with such behaviours.

References:

Official texts::

(1)- Order No.66-156 dated 18 Safar 1386 corresponding to 8 June 1966, which includes the Penal Code, as amended and supplemented.

Books:

(1)- Abdelhamid El-Minchari, Forensic Medicine and its Technical Role in Detecting Crimes, Dar El-Maaref, Alexandria, 2007.

(2)- Adel Boudiaf, a Brief Explanation of Private Criminal Law, Numidia for Printing, Publishing and Distribution, Algeria, 2013.

(3)- Ahcène Bouskia, a Brief Introduction to Private Criminal Law, Dar Houma for Printing, Publishing and Distribution, Algeria, 2013.

(4)- Ahcène Bouskia, a Brief Introduction to Private Criminal Law, Part Two, Dar Houma, Algeria, 2007.

(5)- Ahmed Chaouki Abou Khotoua, Crimes against Persons in the Federal Penal Code of the United Arab Emirates, First Edition, Publishing House, 1990.

(6)- Ben Chikh Lahcene, Memoir on Private Criminal Law, Fifth Edition, Dar Houma for Printing, Publishing and Distribution, Algeria, 2004.

(7)- Chiheb Bassem, Crimes against Human Being, Dar Houma for Printing, Publishing and Distribution, Algeria, 2011.

- (8)-** Faouzia Abdessattar, Explanation of the Penal Code, Special Section, According to the Latest Amendments, Fourth Edition, Dar El Nahda El Arabia, 2017.
- (9)-** Fettouh Chadli, Explanation of the Penal Code - Private Section -, University Publications House, Alexandria, Egypt, 1996.
- (10)-** Hassanine Ibrahim Salah Abid, Crimes of Assault on Persons, Dar El Nahdha El Arabia, 1983.
- (11)-** Kadhem El-Mokdadi, Lectures on Forensic Medicine and Criminal Investigation, Arab Academy in Denmark, 2008.
- (12)-** Likulia Bolongo, Droit Spécial, Volume 1, librairie générale de droit et de jurisprudence, Paris, 1985.
- (13)-** Mohammed Ahmed Taha, Explanation of the Penal Code: Private Section, Part Two, Crimes of Assault on Persons.
- (14)-** Mohammed Sobhi Nadjm, Crimes against Persons, Dar El Thakafa for Publishing and Distribution, Amman, Jordan, 2012.
- (15)-** Omar El-Farouk El-Houssaini, Explanation of the Penal Code: Private Section on Crimes of Assault on Property and Persons, Special Edition for Open Education with Special Permission from the Author, 2009-2010.
- (16)-** Raouf Abid, Crimes of Assault on Persons and Property, 8th edition, Dar El Fikr El Arabi, 1985.
- (17)-** Sobhi Nedjm, Explanation of the Algerian Penal Code, Private Section, Office of University Publications, Algeria, 2000.

Theses & dissertations:

- (1)-** Abdelkader Hasni Mahfoudh, Criminal Liability Arising from Virus Infections, PhD Thesis, Ain Chems University, Egypt, 2007.
- (2)-** Ahmed El-Maasarani, Criminal Kability for Contaminated Blood Transfusions, PhD Thesis, Ain Chems University, Egypt, 2004.
- (3)-** Oualid Ali Alia, Transmission of Infectious Diseases between Criminal liability and Protection of the Infected, PhD thesis, Faculty of Law, Department of Criminal Law, Mansoura University, Egypt, 2020,
- (4)-** Sadek Leila Ali Houcine, The Crime of Human Trafficking, Especially Women, as a Cross-Border Crime, A Comparative Study of the Arabian Gulf, Master Thesis, Middle East University, Jordan, 2011

Articles:

- (1)-** Mamdouh Khalil El-Bahr, Criminal Liability Arising from Blood Transfusion - A Comparative Study -, Journal of Law for Legal and Economic Research, Alexandria University, New University House, Egypt, 2001.