



HISTORY OF THE DEVELOPMENT OF LEGAL TECHNIQUE

Berdiyarov Shuxrat Namazboevich

Head of the Department of Prevention of Offenses and Ensuring Public Safety of the Specialized Branch of the Tashkent State Law University, Doctor of Legal Sciences, Professor

Article history:	Abstract:
Received: September 13 th 2022 Accepted: October 13 th 2022 Published: November 24 th 2022	The article highlights the history and development trend of theoretical of application of legal techniques in different periods – the old, the middle ages, a new period and the latest period. Special attention is paid to the work of scientists who have made a significant contribution to the development of legal techniques in the years of independence and improvement of law-making.
Keywords: Legal technique, legislative technique, history, law, law-making, development, era, normative legal document, legal source.	

The author of the term "legal technique" is the German jurist Rudolf von Iering (1818-1892). This concept R. One of Iering's main works is "The spirit of Roman law in its various stages of development [25]. However, the roots of legal technique go back several centuries. In particular, the thinkers who lived in the period before Christ and the new melodic period, as well as the ideas developed in modern political and legal doctrines, from one point of view or another, were related to the issue of legal technique. The emergence of law, the basis of certain laws and regulations in management, the mutual relations of the individual, society and the state, the quality of laws and regulations under the law, their role in ensuring the legal order, the legal consciousness of the population, culture, literacy and other such things formed the doctrine and theories of legal technique. . These doctrines and theories were of great importance in the creation and adoption of laws, their improvement, and the formation of legal consciousness, culture and literacy of citizens of certain countries.

Legal technique is a reality that appeared with the emergence of law. Because the manifestation of legal technique takes place within the framework of law. The development and improvement of law, i.e., simultaneously with the improvement of legal technology. Legal scholars divide the formation and development of legal technology into four periods: 1. Ancient period; 2. Middle Ages; 3. New era 4 [26]. Newest era. In our opinion, such periodization can be implemented on a global scale.

In ancient times, the rules of legal technique corresponded to human thinking and were characterized by being simple (primitive) and unimproved. For example, in the primitive community system, there were certain laws, which were established by the elders of the community, it is recognized in historical sources[22]. Archaic law was expressed mainly in oral form. After all, written speech did not exist for hundreds of years after the period of primitive

society. Archaic law is a set of unwritten rules that are passed down from generation to generation in the form of stories and narratives about solving specific case issues[14].

When we talk about the history of legal technology, we often focus on issues related to foreign countries. In fact, we can see that legal technology has developed in a unique way in our country. There are such rare sources that describe the ancient history of Uzbekistan, which has a history of almost 3000 years of national statehood, based on which it is possible to boldly admit that the formation of legal technology in our country goes back to the distant past. According to the sources, "Avesta" consists of 21 books (transcriptions), "gats" (the oldest parts), "yashts" and summaries of traditions and rituals. Its text was written in gold letters on twelve thousand oxhides. The Avesta consists of 348 chapters and contains 345,700 words[2].

According to the researches of Avesta scholar M. Iskhakov, "Avesta".

Article 8 "Legal issues"; The 16th verse is devoted to "Justice and military laws, laws against kinship regarding marriage, the main rules of religion." At the same time, issues of crime and punishment are also regulated in "Avesta". Crimes are divided into the following types: crimes against the person; crimes against religion; crimes against property; crimes against animals; crimes against morality; crimes against nature[2]. So, "Avesta" served as a universal codex with a certain system for that time.

One of the sources that greatly contributed to the development of legal technique in the Middle Ages is the work "Hidaya" by Burhoniddin Marginani. According to the sources, "Hidaya" is a traditional way of writing in the East, and in Arabic "Al-Hidaya" means "leading on the right path", "reliable guide"[7]. In history, there are works related to various fields written with this name, and there were works written in the field of fiqh other than Burhoniddin Marginoni, and works



written under the name "Hidaya". However, experts admit that Burhoniddin Marginani's work "Hidaya" is superior to other works in terms of its language, writing style, art of using words, legal interpretation[24].

As a conclusion about Burhoniddin Marginani's work "Hidaya", it should be noted that it can be described as the largest legal source, a unique example of legal technique, not only for Uzbekistan, but also for the whole world, that is, for Islamic jurisprudence. In terms of legal and technical formation, the writing style of the work in simple and fluent language is noteworthy.

In the 10th-11th centuries, manuals were developed for state rulers in the East, consisting of advice and guidance on managing the country. Similarities and differences can be observed in them. Among such manuals, one of the most famous is Nizamulmulk's "Policy". Abu Ali Hassan ibn At Tusi-Nizamulmulk, who worked as a minister in the Seljuk state, wrote this work in 1091, and in 1092 he reworked it, handed it over to his special secretary, and went on a trip to Baghdad. But this work was published only in 1105, that is, during the reign of Ghiyasuddin Muhammad bin Malikshah. As a legal source, "Syyosatnama" has its own style of writing. This work is not written in the form of a system of norms, but in the genre of a story. However, this does not prevent it from being recognized as a legal source. Because it describes how to solve existing problems in the form of a story or narration. Therefore, "Politics" can be said to be a unique example of law and law analogy for its time.

When talking about the history of the formation and development of legal technology in our country, it is necessary to dwell on the important document of Amir Temur and the Timurid dynasty and the Constitution (Basic Law) of his time [20]. After all, Amir Temur, who established a huge centralized state consisting of 27 states, was the first general who practically applied the principle of equality of all before the law in his country. Kh. T. Mamatov in his scientific work entitled "State and legal issues in Temur's constitutions" analyzed "Amir Temur's constitutions from a historical and legal point of view, and first of all, the many occurrences of expressions such as I consulted, ordered, and judged in his language (text) revealed its legal character. Gives It contains certain norms on the state, civil, financial, criminal and other branches of law," he said[11]. "Temur's Laws" are significant in the formation of the requirements of the legal technique, and are characterized by the fact that they strengthened the principles defined in the legal norms at that time.

By the XVII-XVIII centuries, legal technical issues were widely studied by scientists. This is a unique

new era, when legal reforms were implemented at the State level. In this case, the main direction of the reforms was aimed at the legal system - laws, the clear and understandable language of the law, and the opinion prevailed that the laws should be made simple and clear based on the interests of the citizens, so that they cannot be interpreted in different ways[18].

In particular, the important rules of legal technique during this period were explained in the work of the great French thinker Charles Louis Montesquieu entitled "On the Spirit of Laws". Regarding the language used in the laws, he says: "The language of the law should give the same understanding to all citizens, incomprehensible sentences should not be allowed in it, and the legislative style should be distinguished by its brevity and clarity"[13].

Based on the above-mentioned work of S. Montesque, the English jurist I. Bentham writes a book called "Nomography". This work presents the requirements for the language of the law, and recognizes the need to use a language understood by citizens as the main requirement[10]. Lawyers of this period A. Stoss and B. Vakh believes that the simpler the legislator's opinion is expressed, the clearer and clearer the text will be[23].

The 19 th century German jurist R. Iering, researching the issues of legal technique and legal language, states that "in order to make legal knowledge understandable to non-lawyers, it is necessary to make extensive use of the means of expression of law that have been ingrained in the people"[6]. In addition to the above-mentioned positive aspects of law-making issues, the reason for the desire for an authoritarian approach in the state administration typical of the Middle Ages, there were also cases where the content and essence of the laws were made in an abstract state in a language that the people did not understand, and extremely long sentences. Sometimes the laws are too short and abstract. For example, it is known from history that Napoleon said to the drafters of the French constitution: "Write it so that it is short and incomprehensible"[19]. Sometimes, legal documents are drafted in languages that are not understandable for the population. For example, in the Middle Ages in Western Europe, laws were published only in Latin, and for a long time it was used as the official state language. Laws passed in Latin were not understandable for the general public (for example, Germans) [15].

Of course, the above-mentioned negative aspects are partial, and in general, by the new era, new methods were used and improved in the expression of legal norms. These features are seen in the following. First, legal norms began to gain generality from



casualness. Because, by this period, the scope of social regulation of law has expanded and become more complicated. Secondly, the text of the legislation began to be expressed in a clear form. In this case, legal norms are classified according to specific areas of social life. Regulatory legal documents have a complex structure, which in turn is divided into chapters, sections, paragraphs and other parts. Some large regulatory legal documents, in particular codes, are divided into general and special parts.

During this period, Russian legal scholars also worked effectively on the improvement of legal technology. In particular, R. Lukich commented for the first time on the issue of legal technique in his work entitled "Law Methodology", and thought that law is created by the people and formalized only through legal and technical means. As a result, legal technique appears as a science formalizing law by professional lawyers[9].

In general, it is possible to count many scientists who conducted scientific research on the issue of legal technology. For example, I. Iering, D.A. Kerimov, T.V. Kashanina, Muromtsev G.I., V.A. Levansky, A.I. Lyublinsky, N.N. Matuzov, A.S. Pigolkin, S.V. Polenina, T.I. Tikhomirov, Yu.A. Tikhomirov, A.A. Ushakov and others.

Before independence, the issues of legal technique in our country were manifested in a way that was mixed with communist ideology. Because, it was required that the basic content of each normative legal document to be adopted should be compatible with the communist idea and its principles.

During the years of independence, serious attention was paid to further improvement of law creation and law enforcement issues in our country. In particular, since 2005, a bicameral parliament has been established in our country, which works on a professional basis. The Law of the Republic of Uzbekistan on December 14, 2000 (as amended on December 24, 2012) "On Regulatory Legal Documents", October 11, 2006 "On the Procedure for Drafting Laws and Introducing them to the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan" and a number of other departmental regulations - legal documents were accepted. Also, the issue of legal technique was analyzed in one or another scientific works and publications of legal scholars, and a reaction was expressed. Including H.T. Odilkoriev describes the specific aspects of the law-making process in the Republic of Uzbekistan, G.R. Mirzaeva highlighted the nature of the legislative power, its role in the life of the society, and legislative activities, while focusing on one or another aspect of the legal technique[17]. It should

be noted that L.M. Boyko studied the scientific and theoretical issues of improving the legal technique in the context of socio-economic development of the society. Sh.N. Kochimov studied the scientific and theoretical problems of expressing legal norms in the Uzbek language, focusing on the language of laws, method of expression, legal terminology[8].

After the bicameral parliament was established, H.T. Odilkoriev and I.T. In the monograph "Bicameral Parliament" published by Tulteev, the emergence of the bicameral parliament, its development at the world level, the experience of foreign countries are carefully studied, and the issues of organizing the law-making process in the conditions of the bicameral parliament on a new basis are reflected[17]. S.A. Abbaskhojaev studied the issues of organizing the activities of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan from a scientific and practical point of view. Some aspects of legal technique have been touched upon in this research[1].

I.T. Tulteev defends the research work entitled "Prognosis of law creation: theory, methodology, practice", in which he solves the practical problems of law creation and law enforcement from a deep scientific point of view, the possibility of improving the work efficiency of legislative and other law creation bodies, and eliminating shortcomings and conflicts in the legal system. showed the ways to achieve it[21].

Currently, in connection with the teaching of the courses "Legal Techniques" and "Legal Techniques" at the Tashkent State Law University, M.K. Najimov, Sh.A. Saydullaev's educational manual entitled "Legislative Techniques" was published. By the way, it has been analyzed theoretically and practically.

In 2009, the author of this article conducted research on the topic "Legislative techniques (theory, methodology, practice) in the conditions of a bicameral parliament", which showed the possibilities of incorporating the requirements of the professional parliament's legislative techniques into laws. In 2011, a study guide entitled "Legislative Techniques" was published, and in 2017, a monograph entitled "Legal Techniques" was published. In 2018, a doctoral thesis was defended on the topic "Improving the methodological foundations of the use of legal techniques in legal activity".

So, in our opinion, there are many sources that serve as an example of the formation and development of legal technology in Uzbekistan, and each of them can be an independent research object.

As a conclusion, it can be said that the first legal documents in the emergence of law have a simple



appearance, which means that the legal and technical rules have not yet been well mastered. With the development of society, legal documents and, in turn, the rules of legal technique and the related doctrines have also developed. We think that in the future, in harmony with the legal system and reality, the issue of legal technology will rise to a new level of quality. It serves to create conditions for further strengthening of legal order and legislation in society.

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