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THE HISTORY OF THE DEVELOPMENT OF THE FUNCTIONS OF CRIMINAL COURTS IN UZBEKISTAN

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Abstract:

Being one of the bodies in building the rule of law, the judiciary performs the function of monitoring the implementation of laws, supervision and prevention of violations of the law in the state. In this regard, the judicial system of the Republic of Uzbekistan faithfully performs its main function – the function of justice. But it should be noted that he went through quite laborious periods before reaching this level. In this article, the author reflects on the development of criminal courts in Uzbekistan.

Keywords: Court, Judge,.

If we talk about courts, then studying the history of the development of courts, including criminal courts, on the territory of our country is an important scientific issue. If we look at the ancient history of Central Asia, in the administration of justice formed on the basis of the culture, life and traditions of our people, the function of judges was performed by prestigious, respected people with life experience.

The decisions they make regarding controversial and conflict situations in society are recognized as undoubted and obligatory. In the ancient history of our country, one of the cultural and legal sources regulating the social life of the society - "Avesta" - rules on court cases can be found. According to the information in "Avesta", the court is responsible for determining the guilt of the person who committed the crime, the validity of the lawsuit and the punishment.

The states that were formed on the territory of modern Uzbekistan in certain historical periods, in particular, the Sakas, Kangyu, Huns, Sarmatians, Karluk Khanate, Turkic Khanate and other countries, had their own legal system, which corresponded to the cultural and legal thinking of that time and in many cases this thinking was based on heresy and superstition [2].

In Muslim law, crimes have been classified from a religious-ideological point of view, and criminal proceedings in court have certain differentiation on this basis. Therefore, the court structure based on Muslim law differs from other criminal-judicial systems by the simple organization of procedural forms. A single judge handled all types of criminal and family inheritance cases.

In the Bukhara and Khiva khanates, which were characterized by feudal stratification, the amirs and khans themselves stood at the head of the judiciary and exercised the Supreme Court. They conducted public trials and prosecuted individuals mainly for tax evasion, looting the treasury, rebellion against the authorities and other similar crimes. Only the khan could sentence to death. Kushbegi, Beks, Kazi Kalon (Supreme Judge), Kazi Askari (Military Judge) and others exercised all rights "except the right to life and death", in cases where the death penalty was considered necessary, they received the permission of the khan (emir).

After Russia's conquest of Central Asia in the second half of the 19th - early 20th centuries, after the formation of the governorship of the Turkestan region, the colonial authorities began to create their own judicial bodies that operated according to the laws of the Russian Empire. During this period, there was no classification in the field of law in Turkestan, and the "Regulation on the Administration of the Turkestan Territory" approved by the Russian Emperor on June 12, 1886, was considered the main legal document of the Turkestan Territory [4].

According to this Regulation, a court of judges was created under the name "people's court". The judicial system introduced by Russian Empire initially consisted of two systems: a) these were general courts that resolved conflicts arising from worldly relations; b) it is a judicial court operating on the basis of Sharia and resolving primarily relations arising on a religious and ideological basis.

Thus, in the judicial system, the national judicial system, that is, the court of judges, and the court of the beys (which were called "people's courts" by the Russian Empire) were preserved for the nomadic peoples.

The "Temporary Regulation on the Administration of the Turkestan Territory" adopted in 1865 defined the normative instructions related to the general conditions, principles, procedures and forms of the introduction of the judiciary of the Russian Empire in the territory. An important and first normative basis

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for the judicial reform begun in the Turkestan region was the "Draft Regulations on the structure of the judicial department in the Turkestan region," introduced in 1867. The draft regulation consists of three parts, the first part of which is called: "Organization of judicial proceedings". According to him, the two-level system of the imperial court was implemented in Turkestan.

The second part of the "Draft of the Regulation on the organization of judicial proceedings in the territory of Turkistan" refers to the main issues of criminal proceedings, and the general order of the criminal proceedings was defined in it.

The central issue of the draft regulation is the order of jurisdiction of criminal cases, their bases, and in practice the jurisdiction of lower and higher courts, military and local "people's courts" in criminal proceedings was determined by the issue of jurisdiction.

It can be seen from the norms in the draft regulation that the pre-trial stage is conducted in two forms.

Except for cases conducted according to the application of a person, a preliminary investigation was conducted in all cases, which was conducted by district judges (Article 2 of the Draft Regulation). These cases were considered in the regional court, because this procedure was supposed to ensure the impartiality of the court in the case.

To summarize based on the above, we can say that the district judge performed a double function, that is, when considering minor acts - resolving the case and preliminary investigation of crimes.

Later, from 1886, attempts were made to further reform the Draft Charter.

Politics in the judicial system was reflected in the reform of the procedural activities of the investigative judge. In addition to the conciliation judges, their assistants were responsible for conducting the initial investigation, and they carried out the main part of the investigation. The assembly of the regional court was restructured and turned into regional (district) courts consisting of professional judges, and conciliatory judges were established under the district courts. The district courts had the power to take any criminal cases for the trial of a conciliator judge or to transfer cases to the trial of conciliator judges.

The project aimed at reforming the judicial system did not undergo significant changes, and in 1897, the third stage of judicial reforms began, and these changes were also carried out on the basis of a written draft of the Statute, which soon ended, approximately in 1899. As a result of the reforms, the judicial system in the country has improved somewhat. A judicial chamber was established in the Turkestan region, and it became the highest judicial stage in the country, exercising judicial control. Conciliation courts are lower-level courts, and now they have three categories of judges: 1. precinct judges; 2. additional judges; 3. united the honorable judges.

The district courts were considered the middle level and had the authority to supervise the lower courts and consider criminal cases in the first instance. Their decisions at first instance could be appealed or protested to the Trial Chamber, which also tried crimes against the authorities.

Detention facilities for suspects, accused and defendants were established under the conciliatory judges and brought under their control. Conciliation judges could impose a prison sentence of up to three days within their jurisdiction.

Thus, by the last years of the 19th century, the Russian Empire almost completed the formation of the judicial system in the country. The last change that took place was the establishment of the above-mentioned Judicial Chamber, that is, the Tashkent Judicial Chamber, which became the highest judicial instance in the country. The trial chamber was headed by the chairman and mainly performed the control function. But in the territory of Turkestan, with the aim of adapting the Russian judicial system to the Russian judicial charter, the military authorities of the country began to reform the judicial system again, and this fourth stage, covering the years 1898-1917, was aimed at adapting the judicial system to the requirements of the Judicial Charter of the Russian Empire [6].

The October coup of 1917 also affected the judicial system. People's courts and tribunals were established. In December 1917, a decree was adopted to reorganize the rules of judicial proceedings. Based on this decree, the activities of regional district courts, Tashkent Court Chamber and military courts were suspended. The sitting of the Conciliation Judges in the District Court was terminated entirely. The powers of precinct judges were defined in the decree. In the field of criminal justice, types of crimes punishable by two years of imprisonment have been included in the trial of the precinct conciliation court. The decision (sentence) passed by the precinct conciliation judge is final, and the decision can be appealed in the cassation procedure, and this right was given only to persons sentenced to imprisonment for more than six days.

Conducting the preliminary investigation was also entrusted to local judges. All local court judges had to approve the use of a preventive measure in the form of arrest, detention, as well as the decision to bring a person to work as an accused.

As a result of the reforms, several more changes occurred in the judicial system in 1918, the peculiarity of the changes was that it turned the highest

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court in the country into a purely supervisory stage, and the cassation court of the Turkestan region, mainly lower and middle level courts, reviewed the judgments and rulings in the cassation procedure. Therefore, the judges of the country's cassation court were appointed directly by the executive committee of Turkestan, and they did not participate in the activities of any other stage court. The trial consists of several stages, these are: the first stage, preparation for the trial, that is, solving the issue of the participation of the participants in the trial; the second stage, the main stage of the court investigation, began with the prosecutor's report on the contents of the accusation, and in the case of preliminary investigation, with the announcement of the conclusion of the court's investigative commission. If the accused pleads guilty during the trial, the court could issue a verdict without questioning the witnesses.

After the full investigation of the criminal cases, the next stage of the trial, the negotiation of the parties, was passed. After the negotiation of the parties, the court went into the consultation room to pass the verdict. The judgment was put to a vote and adopted by a majority vote, and its content was announced to the parties. Proceedings in the appellate procedure regarding the sentence were terminated, and the parties, as well as local executive bodies, could appeal within a period of one month in the cassation procedure.

In addition, the "Revolutionary Tribunals" were established in the criminal court system [8], whose activities were aimed at protecting the coup d'état and punishing anyone who did not sympathize with the ideology of the Bolsheviks and who did not obey the order established by them.

Under the pressure of the protests of the local people, the Soviets began to reform it, while keeping the courts of judges and biy. In 1922, the "Regulation on the Court of Judges in the Republic of Turkestan" was adopted. According to him, the court of judges (biys) operated simultaneously with the people's courts, under them only for the local population.

The first stage of judicial policy implemented in Turkestan was completed on August 1, 1922 with the implementation of the first systematized Code of Criminal Procedure, and the second stage began with the introduction of the code into practice.

Under the Criminal Procedure Code of 1926, the court was empowered to control the disposal of criminal cases. All criminal cases closed by the investigator were sent to the court through the prosecutor. The court had the authority to cancel the investigator's decision and send it back for additional investigation or issue a decision to close the case (Article 201). Terminated criminal cases are allowed to be reopened by court decision on newly opened cases (Article 202).

In the Criminal Procedure Code of 1926, the issues to be resolved by the judge are: consideration of applications and complaints received in cases that do not require preliminary investigation; initiating a criminal case, confirming or changing the precautionary measure used by the investigator (Article 244); amendment of the indictment, confirmation of the indictment; changing or canceling the precautionary measure; assigning the case to trial; solved the issues of involving additional witnesses or an expert in the case individually or collegially.

The positive aspect of the Criminal Procedure Code of 1926 was that it was subject to judicial control, such as the application of preventive measures of detention and the termination of criminal cases.

After the CPC of 1926, a new CPC of the Uzbekistan SSR was adopted in 1929. The new CPC somewhat simplified the procedural powers related to the operation of the court. This was especially manifested in the formation of the procedural order at the judicial stage. Accordingly, it was necessary for the court to resolve the following issues at the administrative session: 1) direct resolution of applications received by the court, that is: initiation of a criminal case based on private prosecution cases, in which case the court would send the case for preliminary investigation or personally consider the case; refusal to initiate a criminal case; 2) preparing criminal cases with indictment for trial.

In the Criminal Procedure Code of 1929, the rule that negatively affects the impartiality of the court, that is in the circumstances of the criminal case determined by the court, the creation of a new indictment by the court and the announcement of the defendant, depending on the score, meant that the court actually performed the function of prosecution rather than the function of resolving the case. The court panel that started the discussion of the criminal case in the CPC was not allowed to discuss another criminal case until it finished the case and passed the verdict.

As a result of judicial reforms aimed at the modernization of criminal procedural relations, in 1958, the "Fundamentals of Criminal Justice of the USSR and Union Republics" was adopted, on the basis of which, on May 21, 1959, the Law on the Approval of the Criminal Procedure Code of the Uzbek SSR was adopted, and the Criminal Procedure Code was introduced into legal practice on January 1, 1960. In the adopted CPC, the norms specific to the court included the following: the obligation to initiate a criminal case was assigned to the court as well as to the investigator, investigator, and prosecutor; a court decision was required to arrest a person; principles such as the implementation of justice only by the court and

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independence of judges, equality of citizens before the court were established; the scope of the circumstances in which it is necessary to prove the trial was clearly indicated to the court; the court was charged with the obligation to create an opportunity for the accused to defend himself against the accusation against him using the means and methods established by law.

The court has been freed from some of its activities related to the prosecutorial function, including drawing up the indictment and introducing it to the defendant. The sentence could be appealed only in the cassation procedure, and in emergency cases, in the control procedure.

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