



THE GENESIS OF THE FORMATION AND DEVELOPMENT OF THE PROSECUTOR'S OFFICE (THE HISTORY OF THE PROSECUTOR'S OFFICE SYSTEM)

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ABSTRACT

This article analyzes various theories and concepts about the evolution of the prosecutor's office of Uzbekistan, its history, the genesis of the formation and development of the prosecutor's office, as well as the content and evolution of its systems. The article analyzes the foundations of the emergence and development of the prosecutor's office, its essence and various theories concerning its activities.

This article also provides a comparative analysis of the scientific literature, several theories of formation (evolution) and the nature of prosecution, including the theory of the legal process, institutional theory, political theory and the theory of dependence on resources.

In modern legal systems, the prosecutor is the central figure of criminal justice. This includes drafting an indictment, presenting evidence to the court, and participating in cases on behalf of the State. Adversarial and inquisitorial prosecutions continue to coexist in various legal traditions. Also, over time, the emphasis on responsibility for the moral standards of prosecutors and their behavior increases. The rules of professional conduct and control mechanisms are aimed at ensuring impartiality and fairness in the prosecution process [1].

Formation and development of the Prosecutor's Office in Uzbekistan.

The prosecutor's office system is a legal transplant that appeared in Uzbekistan during the Russian Empire. In Russia, however, this system was borrowed from France. Accordingly, we study the formation and development of the prosecutor's office in Uzbekistan, which we divide into periods and content:

Control of legality in the Middle Ages and Khanates;

The Prosecutor's Office in the Turkestan, Bukhara and Khiva Republics during the Russian Empire;

The Prosecutor's Office in Soviet times;

Prosecutor's Office in the years of independence;

New reform and prospects.

In medieval states where Islamic law was practiced, three judicial and pre-judicial institutions appeared: Kazi (judiciary), mazalim (ombudsman), Hisba or ihtisab. Hisba (Hisbah)



or ihtisab primarily embodied the practice of Sharia prescriptions, in particular the call for good (daat ila al-Khair) and Amri's appeal to Ma'ruf and evil (amr bi al-Ma'ruf and nahiy an al-munkar) [2]. The person who carries out hisba is called a muhtasib and is considered as an institution much closer in its functions to today's prosecutor's office. Some scholars claim that the first Muhtasib caliph in the Islamic world was Umar ibn Khattab. But According to Buckley [3] this institution of control puts forward the idea that it existed in the Arabian Peninsula before Islam.

Thus, the Muhtasib institute appeared and developed in Central Asia under the influence of the Arab Caliphate. Uzbek scientist Tanikeli G.Malikova noted that one of the main activities of the mukhtasibs was to ensure order and legality in the markets, zero markets were an important place where people gather a lot, meet, exchange information [4]. In addition, Muhtasib, authorized by the ruler (emir), fights against law and order in society and acts contrary to them. According to Malikova, during the caliphate, the Muhtasibs were given the power of the Qazi, while in later periods in Central Asia, the Muhtasibs obeyed the emir and received power from him.

The conquest of the khanates of Central Asia by the Russian Empire led to the creation of a prosecutor's office in these territories, which was formed according to the European system. At this stage, it is also acceptable to focus on the formation of the prosecutor's office in Russia itself.

Emperor Peter I, who "opened a window" to Europe for Russia, introduced the institution of public prosecution along with European legal traditions. A number of his decrees dated January 12-18, 1722 established the Prosecutor's office and established their duties. The Russian statesman, Prosecutor General of the Russian Empire and Minister of Justice N.V.Muravyov (1850-1908) described the essence of Peter's prosecutor's office, noting that prosecutors control the legality and decisions of state bodies, at the same time he noted that the main means of control is to file a protest in court. the violator or a high-ranking authority [5]. As a result of major judicial reforms in 1856 during the reign of Emperor Alexander, the prosecutor's office received powers to oversee the investigation and support public prosecution in the courts.

The same Russian Empire also introduced its own governing bodies and judicial bodies with entry into Central Asia. It is said that at that time in Turkestan, which was officially part of the Empire, the Institute of public Prosecution appeared in 1867. However, separate prosecutor's offices are not formed for this purpose, these functions are performed by the Governor-General himself [6]. Later, in 1887, prosecutor's offices were established in Turkestan at the provincial level, officially subordinate to the Prosecutor's Office of the Russian Empire. After the judicial reform of 1899, district courts were established in each province and district prosecutor's offices were established under them. In addition, a prosecutor's office was established in Tashkent at the Turkestan Judicial Chamber, which performed the duties of a high-ranking prosecutor's office. The district attorneys reported to the prosecutor of the Chamber, and he to the Minister of Justice of the Empire.

In the pre-revolutionary period, the prosecutor's office of Turkestan, according to the judicial statutes of the Russian Empire, had legitimate authority in criminal cases, although it did not occupy a monopoly position in criminal cases (internal affairs investigators also had the



authority to initiate criminal proceedings), but had great influence on the preliminary investigation, supported prosecution in the courts. Prosecutors also had the authority to require the courts to perform certain procedural actions (for example, interviewing witnesses, appointing an expert examination), which was precisely a request, the execution of which was mandatory for the courts [7]. During this period, the small number of prosecutors, ignorance of the language and habits of the local population undermined the effectiveness of the prosecutor's office in cooperation with the local population, making it difficult to protect the rights and interests of the population.

On December 12, 1917, the Soviet government that came to power adopted a decree on the termination of the prosecutorial system of judicial power throughout the Russian Empire from that moment on. Olympus G. According to Malikova's research, in Turkestan, the activities of the prosecutor's office remain paralyzed, justice is being stopped, and crime is growing [8]. On December 31, 1917, the Decadent, by order of the Council of People's Commissars of Turkestan, ordered the courts to act until their reorganization. On November 19, 1918, according to the "instructions on elections to the people's courts of the Turkestan Republic", the supervision of the prosecutor was to be abolished, replaced by a board of prosecutors.

With the abolition of the Prosecutor's Office, the function of prosecutorial control did not disappear, it was distributed among various organizations. Along with the control of legality, many bodies participated in this, including revolutionary people's movements, Soviet committees, courts, police, the Turkestan Emergency Commission (TurCHK) and other commissariats. But the Soviet authorities realized the need for this control to be carried out by a single independent body.

On May 9, 1922, the Turkestan Central Executive Committee adopted the Statute "On the State Prosecutor's Office of the Turkestan ASSR", which entered into force on June 3, 1922. Since that time, a unified centralized prosecutor's office system has appeared in Turkestan, which was a large structure that also operated in rural areas. Since today, the formation of the prosecutor's office system in Uzbekistan has entered a new systemic stage. In addition to criminal powers, the Prosecutor's Office was charged with overseeing the implementation of the laws and orders of the Soviet Government and bringing to justice those who violated the laws and orders of the Soviet Government [9]. But the prosecutors had dual subordination and were accountable to the relevant mahalia executive body in addition to the Prosecutor General. This would undermine the independence and impartiality of the Prosecutor's Office. This was later corrected by a 1957 decision that abolished the accountability of the prosecutor's Office to law enforcement agencies.

The Prosecutor's Office of the Bukhara People's Soviet Republic was established on November 21, 1922, but it is not an independent body as a department of the Executive Committee of the Bukhara People's Soviet Republic. Later, the People's Ministry was established in Bukhara as a separate body, which was entrusted with the functions of the prosecutor's office.

While the 1955 statute of the Prosecutor's Office further improved this system, in 1979 the USSR law "On the Prosecutor's Office" was aimed at centralizing the system and creating centralized management throughout the Union. This law has more clearly defined the duties and powers of the prosecutor to supervise the execution of laws by bodies of inquiry and



preliminary investigation. The prosecutor's instructions to the bodies of inquiry and preliminary investigation have become mandatory not only during the investigation process, but also when initiating a criminal case. The Law also defined the legal means and powers of prosecutors overseeing the implementation of laws when considering cases in courts. The law provided for the creation of collegiums not only in the Prosecutor's Office of the USSR and the prosecutor's offices of the Union republics, but also in the Main Military Prosecutor's Office, in the prosecutor's offices of autonomous republics, territories, regions and cities. Thus, collegiality has expanded when discussing the most important issues of prosecutorial supervision.

The new constitutional status of the Prosecutor's Office of independent Uzbekistan began with the adoption of the law of November 1, 1990 "On improving the structure of executive and administrative authorities in the Uzbek SSR and making amendments and additions to the Constitution" based on the ideas of sovereignty scientists [10]. The Prosecutor's Office was authorized to monitor the implementation of laws by various public associations, including political parties, social movements, foundations, as well as all enterprises, banking structures, including commercial banks, regardless of the form of ownership. But in practice, it was necessary to support the USSR law "On the Prosecutor's Office" of 1979.

The Constitution of Uzbekistan dated December 8, 1992 served as the basis for defining the activities of the Prosecutor's Office. Finally, on December 9, 1992, the Law of the Republic of Uzbekistan "On the Prosecutor's Office" was adopted. According to scientists, this law was also enshrined in the 1979 law in its content and structure. On August 29, 2001, the law "On the Prosecutor's Office" was adopted in a new version, in which the Prosecutor's Office underwent significant significant changes. It established a prosecutor's office system in accordance with the administrative-territorial unit, as well as the implementation of military and special prosecutor's offices in accordance with the fields of activity.

One of the most important qualitative changes was the fact that the Prosecutor's office now performed the function of nazoart to monitor the observance of citizens' rights and freedoms, which was aimed at ensuring the protection of new principles of democracy and human rights.

The period from 2017 to the present has become a period of transformation for the Prosecutor's Office. On June 5, 2017, the Bureau of compulsory enforcement proceedings was established at the Prosecutor General's Office of the Republic of Uzbekistan, with which the functions of enforcement proceedings were also added to the Prosecutor's Office. The Prosecutor's Office has become one of the most important actors in the fight against corruption in government agencies, its anti-corruption structures have gained mature experience in enforcing laws and investigating corruption crimes. During the period of independence, the system of the Prosecutor's office of Uzbekistan has undergone significant changes and has grown significantly in quality. In a market economy, it has acquired new functions and powers, such as combating economic crimes, ensuring the rule of law, and protecting the rights and freedoms of entrepreneurs.

Thus, the prosecutorial system has existed in various forms since the emergence of law and statehood, taking shape in the Muslim world in the 8th and 10th centuries, in European monarchies in the 13th centuries in the form of the prosecutor's office-the Inquisition. Notable



among the scientific and theoretical views on the formation of the prosecutor's office are institutional and political theories, the prosecutor's office is influenced by political processes and, in accordance with their organizational aspects, its essence is determined. On the territory of Uzbekistan, the modern prosecutor's office system has been introduced since the time of the Russian Empire, namely since 1867, developing and forming in 1922, 1925, 1955, 1979 under the influence of the imperial and Soviet governments. And during the period of independence, the current content of the prosecutor's office was formed, and this process is dynamic, does not stop, continues to develop under the influence of political, legal, socio-economic processes.

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