

# LEGAL BASIS OF THE INVESTIGATION OF JUVENILE CRIMES IN THE TERRITORY OF UZBEKISTAN IN THE PERIODS OF COLONIAL RUSSIA AND THE FORMER SOVIET REGIME

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**Abstract:** *The article chronologically systematizes and analyzes the essence of the normative legal acts adopted and in force in the period from the middle of the 19th century to 1991 regarding the consideration of crimes committed by minors, as well as the organization and abolition of the activities of the Qazi courts after the conquest of the territory of Uzbekistan by tsarist Russia. Based on this, conclusions were drawn about the creation and strengthening of the legal framework for the investigation of crimes committed by minors during this period.*

**Keywords:** *crime, minors, investigation, kazii, suspect, commission, legal representative, investigative*

## INTRODUCTION

After the occupation of the territory of our country by Tsarist Russia, although the application of Sharia and customary norms by the judicial and judicial courts was not prohibited [1], some changes occurred in the system of juvenile crimes.

After the occupation of Central Asia by Russia, judicial bodies were established by the tsarist colonial authorities to protect the interests of the tsarist regime, and at the same time, judicial and judicial courts were preserved. The fact that administrative and judicial tasks are directly handed over to the hands of the military-bureaucratic apparatus at almost all levels makes court decisions completely dependent on the will, level of knowledge, education, and demands of this apparatus. [2]

A number of measures have been implemented in order to weaken the activity of judicial courts, which have gained their trust among the people. In particular, the introduction of procedures such as the election of judges by the chiefs, the inability of judicial courts to hear all issues, and the ability of citizens dissatisfied with judicial decisions to appeal to the courts of the empire caused the decline of the authority of judicial courts.

Investigations were conducted in courthouses from the first to the tenth of every month. This process is called "Murofa" in Arabic, which means "resolve court cases". Judgments were announced in the later parts of the month [3].

## DISCUSSION AND RESULTS

By the decision of the Central Executive Committee of the UZSSR and the Council of People's Commissars dated February 18, 1928, the judges' courts were abolished, and all cases conducted by them were transferred to the relevant district courts [4].

During this period, a number of regulatory legal documents aimed at regulating the issues related to the consideration of criminal cases were adopted, and certain provisions on the investigation of juvenile crimes were provided for in them. In particular, the following laws and normative legal documents related to the investigation of juvenile crimes were adopted on the territory of Uzbekistan during the colonial period of Tsarist Russia and the former Soviet regime:

1. The Charter of Court Proceedings adopted on November 20, 1864. This regulatory legal document focuses on specific issues related to minors in criminal proceedings [5]. For example, minors under the age of 14 are not allowed to take a witness oath before testifying in court (Articles 95, 706), students of closed educational institutions are interrogated in the institution itself. (Article 433), the appeal can be filed by parents, guardians or other persons who are raising minors (Article 861).

2. Order No. 17 of the Council of People's Commissars of the Turkestan Region dated December 12, 1917. According to him, in connection with the coup d'état by the Bolsheviks in October 1917, in order to form a new revolutionary system for the investigation and trial of criminal cases, the old courts were abolished and the new judicial system was introduced. administration is personally entrusted to precinct judges [6].

3. Decree No. 889 of the All-Russian Central Executive Committee of November 30, 1918 "On People's Courts of the RSFSR". According to this document, investigation of criminal cases is carried out in two ways: inquiry and preliminary investigation, investigation commission of socially dangerous crimes, and investigation of crimes of low social danger by police bodies according to the order of the court. [7].

4. Decree "On Commissions for Minors" adopted by the Soviet of People's Commissars of the RSFSR on January 14, 1918. With this document, the trial and imprisonment of minors and young children was abolished. Cases related to their crimes should be considered by a commission composed of at least three people, consisting of representatives of the fields of justice, public education, and social welfare, and one of the members of this commission should be a doctor [8]. The rules on the composition of this commission are reflected in Article 17 of the Soviet Decree No. 2 "On Courts" adopted on March 7, 1918 [9].

5. Juvenile commissions considered all cases of offenses committed by minors under the age of 17, regardless of gender. According to the results of the investigation conducted by these commissions on the affairs of minors, the person was released or placed in a children's institution [10].

6. Decree of the Council of People's Commissars of the RSFSR, adopted on March 4, 1920, "On the cases of minors accused of socially dangerous acts". With this document, amendments were made to the Decree "On Commissions for Juveniles" adopted on January 14, 1918, and persons under 18 years of age are recognized as minors. in cases where the application of medical-pedagogical measures is not considered appropriate, it is established that the case will be sent to the people's courts for consideration [11]. The Criminal Procedure Code of the RSFSR adopted in 1922 [12]. This code was in force on the territory of our country until 1926. In it, the provisions of the decrees adopted on January 14, 1918 and March 4, 1920 were revised, the issue of criminal prosecution of minors was slightly

strengthened, and the criminal liability of minors aged 16 to 17 years was determined to be the same as that of adults [13 ].

Although there are no separate norms on the characteristics of the investigation of juvenile crimes in this JPK, the provisions related to this issue are reflected in the content of some norms. Article 40 of the Criminal Code stipulates that if there are several defendants in a criminal case, and one or more of them are minors (under 16 years of age), the part of the case against them will be sent to the juvenile commission. Article 144 stipulates that if there are no documents confirming the age of the accused and there are grounds to consider him a minor, it is necessary to conduct a medical examination.

Also, in articles 210, 214, 228, 338, determining the age of the person who committed the crime is provided as one of the circumstances that must be proven in the case, and this issue is included in the indictment, the decision of the prosecutor to send the criminal case to court, and the court it is noted that it will be reflected in the judgment.

In addition, Article 23 of this code defines the concept of a legal representative, and it is reflected that parents, guardians and representatives of institutions and organizations under the care of this person can participate in the case as legal representatives.

7. The Code of Criminal Procedure of the Uzbek SSR adopted on June 16, 1926. This document is the first Criminal Procedure Code adopted in the history of the republic after the establishment of the Uzbek SSR [14].

There are no significant differences between the Criminal Procedure Code of 1926 and the Code of Criminal Procedure of the RSFSR of 1922 in the issue of juvenile crime proceedings. The structure of norms in these JPKs is formed in a very similar situation [15]. Including sending cases of minors under the age of 16 to juvenile commissions for consideration (Article 26), conducting medical testimony on age determination (Article 139), defender of minors provisions such as the condition of participation (Article 53) are stated in the same content in both codes.

Also, we can see that in the JPK, which was adopted in 1926, the measures of responsibility for the crimes of minors were strengthened. According to the JPK of 1922, the cases of persons under 16 years of age are considered only by juvenile commissions, but according to the newly adopted code, minors between the ages of 14 and 16 years are required to receive medical treatment. - in cases where it is not considered appropriate to apply pedagogical measures, it is established that their case may be considered in court and punishment may be imposed by the decision of the commission on juvenile affairs.

In addition, Chapter 9 of this JPK is dedicated to the general conditions of preliminary investigation, according to which it is considered mandatory to conduct preliminary investigation in cases considered by regional courts and military tribunals. In all other cases, based on the decisions of the people's courts or the prosecutor's recommendation, it is stipulated that the preliminary investigation will be limited to the full form or some investigative actions. During the preliminary investigation, interrogation, search and seizure, examination and testimony, as well as testimony by a doctor-expert in order to determine the state of mind, are mentioned as investigative activities (Chapters 13-16). The Code of Criminal Procedure of the Uzbek SSR adopted on June 29, 1929. This code does not foresee any significant changes in the investigation of juvenile crimes [16].

8. Normative and legal documents adopted by the central administrative bodies of the USSR.

In 1935-1959, as a result of an ill-thought-out policy of bringing minors to criminal responsibility, their investigation and trial, a number of new procedures were introduced that contradicted the provisions of the current Criminal Procedure Code in order to strengthen the criminal responsibility of minors. In particular, by the decision of the Central Executive Committee and the Council of People's Commissars of the USSR dated April 7, 1935, minors from the age of 12 should be prosecuted for theft, bodily harm, attempted murder or attempted murder, and all types of criminal punishment. measures are allowed [17]. The Circular of the Prosecutor's Office and the Supreme Court of the USSR dated April 20, 1935 gave explanations on this decision and noted that the highest punishment (shooting) could be applied to them [18]. Decree No. 52 of the Presidium of the Supreme Soviet of the USSR of December 10, 1940 expanded the list of crimes for which minors from the age of 12 can be prosecuted, actions that could lead to a train crash (removing rails, placing various objects on the rails yish, etc.) was assumed to be held accountable on general grounds [19]. This situation caused serious violations in the process of preliminary investigation and court review of juvenile cases.

By Decree No. 25 of the Presidium of the Supreme Soviet of the USSR of May 31, 1941 [20], the mistakes made in the issue of bringing minors to criminal responsibility were partially eliminated, and they are starting from the age of 14 for the above types of crimes, as well as No. 32 of July 7, 1941 According to Decree No. [21], these types of crimes can be prosecuted only in cases of intentional commission.

These regulatory documents, which caused a serious violation of the rights and legal interests of minors, were in force until the adoption of the new Criminal Procedure Code in 1959.

9. The Code of Criminal Procedure of the Uzbek SSR adopted on May 21, 1959. This code served as the basis for the formation of the modern state of investigation of juvenile crimes. In particular, we can see a number of new rules. In particular, in Article 54 of this JPK, persons under the age of 18 are recognized as minors. Some of the norms that apply in our legislation today, for example, the refusal to initiate a criminal case due to a person not having reached the age of criminal responsibility or to close the case (Article 5), to close and consider the criminal case, there are cases of minors (Article 54), the requirement for the participation of a defender (Article 43), placement of minors in the custody of their parents or in a children's institution as a precautionary measure (Article 72), preliminary investigation of juvenile cases Rules such as the requirement to conduct the investigation and the investigation by the investigators of the internal affairs bodies (Article 108), interrogation of a minor witness in the presence of close relatives and a teacher (Article 137) are also defined in the 1959 Criminal Procedure Code of the Uzbek SSR. is broken.

In addition to these, the JPK of the Uzbek SSR of 1959 defined the rights and obligations of the participants in the proceedings, clearly stated the circumstances that need to be proved and proved, and expanded the scope of investigative actions carried out in the investigation of criminal cases (interrogation, confrontation, recognition showing, on-the-spot examination of evidence, examination, seizure and search, seizure of property, seizure of mail

and telegraph, examination, testimony, investigative experiment expert examination (taking samples for) and the introduction of other similar rules, along with all types of crimes, undoubtedly served to improve the methodology of investigating juvenile crimes.

However, in this JPK, the issue of studying the physical, mental and psychological conditions of minors is not sufficiently taken into account, special rules on the participation of a legal representative, pedagogue and psychologist during the investigation period are not established, and a separate system of rules dedicated to proceedings on juvenile crimes has not been created. had a negative impact on the investigation of such cases.

### **CONCLUSION**

According to the above, the following conclusions were reached regarding the creation and strengthening of the legal basis for the investigation of juvenile crimes in the territory of Uzbekistan during the colonial period of Tsarist Russia and the former Soviet regime (the period from the middle of the 19th century to 1991):

- during the rule of tsarist Russia, there were no serious changes in the system of juvenile crimes (until 1917);

- in the Criminal Procedure Codes adopted during the Soviet era special rules for minors began to appear, and this situation also affected the methodology of investigating their crimes;

- The Decree "On Commissions for Juveniles", which was initially considered a special regulatory document aimed at regulating proceedings on juvenile crimes, was adopted during the Soviet era. In this document, although for a short time, the practice of judging and punishing minors was abolished, and the cases of their crimes included representatives of justice, public education and social welfare, and at least three people it is determined to be considered by the commission, which will be formed in the composition of;

- Before 1959, those who did not reach the age of 17, and those who did not reach the age of 18 after 1959 were officially recognized as minors;

- Concepts of pre-trial proceedings, investigation and preliminary investigation, circumstances that must be proven in criminal cases, including issues of determining their age, investigative actions when collecting evidence (face, identification, on-the-spot inspection, inspection, etc.) and the application of precautionary measures for placement of minors in the care of their parents or in a children's institution, and a number of similar important issues were included in the legislation during this period.

- in order to protect the interests of minors in criminal cases, for the first time in this period, attention was paid to the issues of the participation of a legal representative and a pedagogue;

- Since 1922, the range of issues considered by juvenile commissions has been reduced year by year, and criminal responsibility for minors has increased.

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