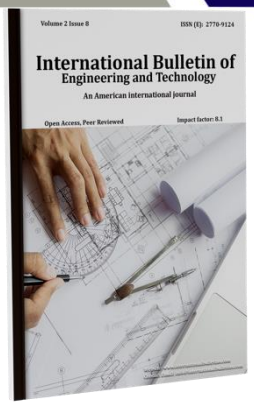

THE HISTORY OF THE DEVELOPMENT OF INTERROGATION AS AN INVESTIGATIVE ACTION (FROM THE 7TH CENTURY BC TO THE SECOND HALF OF THE 19TH CENTURY AD)

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Annotation: This article analyzes the historical evolution of interrogation as an investigative technique, examining its socio-legal foundations and implementation across various historical periods. The author explores the legal norms governing the interrogation process, tracing its development from ancient civilizations through Islamic law to contemporary legal systems. The study offers a detailed account of reforms aimed at safeguarding human rights and mitigating the use of torture during interrogations, while also highlighting the distinctive features of Uzbekistan's national legislation in this domain. This comprehensive analysis can serve as a methodological framework for law enforcement agencies.

Keywords: interrogation, legal development, investigative actions, Islamic law, human rights, national legislation, legislation of Uzbekistan, legal reforms.

The most common of all investigative actions carried out during the investigation of criminal incidents is interrogation. Today, in almost all countries of the world, interrogation is used as a means of proving crimes. This form of collecting and verifying evidence and generally various relevant information is considered the most widespread and universal.

In the entire history of mankind, almost all crimes committed have at least once been formally interrogated or similar evidentiary actions in order to clarify the circumstances of the case. Even before the first signs of state and judicial power appeared in primitive communal societies, obtaining information orally was considered the most effective way to obtain information about an event. This indicates the antiquity of the origin of this investigative action. However, this investigative act has come a long and difficult way before it became what it appears today in terms of content and form. Until recently, the torture of interrogated persons, actions aimed at preventing humiliation of their honor and dignity, were considered simply ineffective attempts.

By studying the history of the investigative action of interrogation, we can not only get information about the process of formation of this institution, but also learn from the negative aspects of the past, create the basis for the re-introduction of positive aspects. At the beginning of this study, referring to the first written sources allows us to collect reliable information on this issue.

The laws of the Babylonian king Hammurabi (XVIII century BC), considered the first written laws that have survived to the present day, state the following about the responsibility of a witness for false testimony: "If a person comes forward in a court case to testify about a crime and does not prove what he said, if this court case is related to a person's life, then this person should be put to death" [1]. The existence of these rules indicates how much attention has been paid to the issue of the veracity of testimony.

At the same time, cases of torture during the interrogation of the accused are very common in the States of the ancient world. The interrogator's actions were primarily aimed at obtaining a confession. At the same time, the answers and other information contradicting the main version of the investigation were often ignored and not even considered. The use of torture and even various forms of barbaric investigation, such as ordeal, was present in all societies in the inquisitorial model of criminal procedure [2].

The questions about what were the first manifestations of the investigative effect of interrogation in our country, whether the existing procedures have always served to ensure justice, how the current interrogation procedure was formed and what factors influenced this, naturally, make everyone who is interested in this topic think. A systematic analysis of related processes in the study of the history of the formation of this investigative action is an important factor in finding answers to the above questions and in-depth analysis of the problem.

The current legal system of our country has a centuries-old history, and we considered it advisable to study its part related to the topic we are investigating, dividing it conditionally into five stages: depending on religious beliefs that were important in the life of our people, as well as legal orders established as a result of conquests that had a significant impact on social relations related to religion, as well as adopting as separate stages the processes of legal reforms implemented during the years of independence and in recent years. In this article, we considered it advisable to analyze the first two stages.

The first stage covers the period to which the first written sources attesting to the history of our country belong, that is, from the 7th century BC to the middle of the 7th century AD (before the Arab conquest). During these periods, the first state formations appeared on the territory of our country, in which certain legal forms dominated, based on the principles of customary law and the religion of Zoroastrianism, and the judicial and legal system mainly functioned on their basis. Despite the high probability that prior to this period there were evidentiary actions reflecting the specifics of the interrogation, information about them has not reached us.

The rules established in the book of Zoroastrianism dating back to this period, as well as in the Avesta, which is one of the first sources on the history of our country, played an important role in the relationship between the system of crime and punishment [3]. In particular, this source says that lying, including perjury, is one of the unforgivable sins.

In almost all crimes, witness testimony was required, but for certain types of crimes, namely four categories, the execution was carried out on the spot without any evidence or witnesses (arsonists of corpses, robbers, sodomites and criminals caught in the act). The above facts indicate that interrogation was one of the main methods of proving a criminal act during this period.

Among the nomadic peoples who lived during this period, the issues of responsibility of persons who committed crimes were resolved on the basis of customary law and were a set of rules that were not written down in a specific form, but were passed down from mouth to mouth, from generation to generation, based on social customs and practices. Therefore, we have not received information about the judicial and legal system that existed among the nomadic peoples of that time [4].

The second stage covers the period from the conquest of our country by the Arabs, that is, from the middle of the 7th century to the second half of the 19th century, and this period is

considered significant due to the widespread spread of Islam in Transoxiana ("across the river", as the territories between the Amu Darya and the Syr Darya became known after the Arab conquest), as well as the fact that The rules of Sharia, based on the tenets of this religion, have taken an important place in the judicial and legal system. The Kazan courts, which operated in this territory for almost thirteen centuries, made decisions based on Sharia, based on folk traditions and customs. For this reason, the analysis of the sources of Islamic law allows us to examine the processes related to the proof of crimes during this period, in particular, the question of how the interrogation was carried out.

In particular, the Hidaya, considered one of the main sources of the science of Fiqh, attests that the rules and opinions regarding evidence are collected in a book. It highlights issues such as the acceptance of evidence, its refutation, disagreements between witness statements, evidence in matters of inheritance, and certification of evidence. The main thing that has evidentiary value in court is the testimony of witnesses, documents, and, if necessary, a purge of suspicion (conditional psychiatric examination) conducted by a judge in secret or openly. To find answers to the questions: "Is it possible in this case to believe the words of the witness or the defendant?""What is his character, psychology?", the judge sends a written request to those who know him well or know how to distinguish between people's characters, sometimes invites such people (at least two) to an open court hearing. Witnesses can be sane, personally free, authoritative men and women, but the testimony of two women is equivalent to the testimony of one man. Giving testimony is a Muslim's duty, which should not be deliberately avoided. At the same time, slaves and female slaves accused of slander, engaged in crying and singing at funerals, accustomed to forbidden drinks, birdwatchers who had previously committed violent crimes, moneylenders, gamblers, immodest people could not be witnesses [4].

The number of witnesses varied depending on the type of crimes and the circumstances of the testimony. For example, in adultery, the testimony of four men is accepted, in cases of revenge, theft, insult and alcohol consumption - two men, in cases of virginity, childbirth and misconduct of women unknown to men - the testimony of one woman. For some reason (travel, fear of dying), a witness may ask another to witness his testimony. For example, a witness says to someone: "Be a witness that I give such and such testimony in such and such a case." But if he does not say this, then anyone who has heard his testimony will not be able to testify that "I have heard him give such and such testimony in such and such a case" [5]. This practice can be called an early form of the institution of preliminary confirmation of testimony.

In general, issues related to justice occupy a special place in the norms of the Islamic Sharia, in particular, the processes related to the collection of evidence, especially with obtaining testimony from individuals (testimony and confession), are regulated in detail, and this procedure has been in force in our country for many years.

In particular, in Mukhtasar, a commentary on Hidoya, the concept of testimony is defined as "truthful communication in favor of one person and to the detriment of another," and it sets out many issues related to testimony, that is, obtaining testimony from individuals. For example, determining the number of witnesses required to prove an event in a case, depending on the circumstances; requiring persons to be honest and reliable before testifying; clarifying the issue of witness fairness by the person receiving testimony.; the need for two people to be present next to the judge if he does not know the language in which testimony is

given, and many other issues that are considered outdated procedures today. This work also provides commentary on questions about who should not be interviewed, and those whose testimony is unacceptable or not accepted include the blind, slaves, female slaves, a man accusing an innocent man of adultery, a woman loudly mourning someone else's dead, and many other categories. In addition, it has been established that in cases involving punishment for crimes and retribution (that is, in criminal cases), genuine witnesses are required to testify themselves, and the testimony of persons who are not direct witnesses is not taken into account. Also, if a person gave false testimony, this was reported to the people, but no measures of influence were applied [6].

It is known from history that the conquest of the territory of our country by the Mongols at the beginning of the 13th century, albeit for a while, influenced the peculiarities of the judicial and legal system of the region. In particular, according to the provisions of the Yasa in force during this period, the death penalty was also provided for spies, perjurers, sorcerers, immoral people, pollutants of nature, bribe takers, prostitutes and their pimps [4].
In general, the interrogation procedure that existed during this period was radically different from the modern one and was characterized by its own specific features.

References:

1. Сборник Законов царя Хаммурапи // Источники права. Вып. 1 – Тольятти: ИИП «Акцент», 1996. – 56 с.
2. Еськов, И. П. История развития института допроса в российском судопроизводстве / И. П. Еськов // Актуальные проблемы современного уголовного права и криминологии : Материалы международной научно-практической конференции, Ставрополь, 06 февраля 2015 года / ФГАОУ ВПО «Северо-Кавказский федеральный университет»; ФГКУ «Всероссийский научно-исследовательский институт МВД России» (филиал по Северо-Кавказскому федеральному округу); НОУ ВПО «Северо-Кавказский гуманитарно-технический институт». – Ставрополь: Северо-Кавказский федеральный университет, 2015. – С. 184-186. – EDN ULYQAX.
3. Авесто: тарихий-адабий ёдгорлик / Н Жураев; таржимон: А. Маҳкам. – Тошкент: Ғафур Ғулом номидаги нашриёт-матбаа ижодий уйи, 2015, - 732 б.
4. Муқимов Зиёдулла. Ўзбекистон давлати ва ҳуқуқи тарихи. Олий ўқув юртлари талабалари учун дарслик.- Т.: “Адолат” , 2003. - 280 бет. (Б. 47)
5. “Ҳанафий фиққидан зарур масалалар” китобидан // URL: https://www.old.islamonline.uz/index.php/islom/item/7593-guvohlik-kitobi (Манбага мурожаат этилган сана: 20.12.2024)
6. Мухтасар: (Шариат қонунларига қисқача шарҳ). Нашрга тайёрловчилар: Р. Зоҳид, А.Деҳқон;–Т.: Чўлпон, 1994 – 336 б. (Б. 259-265)