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# FUNCTION OF ACCUSATION IN THE CRIMINAL PROCEDURAL LAW OF THE REPUBLIC OF THE UZBEKISTAN

**Annotation:** This article analyzes the essence of the accusation in the judicial and legal system, as well as the historical aspects of the origin of the accusation, the role and significance of the accusation in the criminal process of legal status, the norms and scientific views of the essence of the accusation based on foreign and national legislation.

**Keywords:** accusation, suspicion, defence, justice, function.

President of the Republic of Uzbekistan Mirziyoyev Sh.M. in his Address to the Oliy Majlis of the Republic of Uzbekistan on December 29, 2020, noted that "Justice is a solid foundation of statehood" [1].

In fact, in recent years, the reform of the judicial sphere, as well as reliable protection of human rights and interests, has reached a new level.

If we turn to history, then in the 8th century our ancestors, who lived on the territory of modern Uzbekistan, converted to Islam, after which, like in other Muslim countries, the courts of "kadis" and "biys" began to operate in our country.

If the kadis made decisions based on Sharia (Muslim law) in criminal and civil cases, disputes related to inheritance, family and marriage issues, then the courts of biys resolved disputes based on local customs and traditions.

During this period, cases were considered without the participation of a defence attorney; there was no defence function in the trial. Moreover, the accusation was expressed in a private form, that is, one sued the other.

In our country, this system existed almost unchanged until the second half of the 19th century.

By 1864, according to the judicial reforms carried out in Russia, the legal profession was legislatively enshrined in the judicial charter, and the legal profession became a new legal institution in Russia. Since that time, in the Turkestan Territory, as in other countries of Russia, when considering criminal and civil cases in court, defence lawyers were given special powers. In general, from this period, the function of protection appeared in the criminal process.

The function of the accusation was due to the introduction of the concept of the institution of the prosecutor's office in the draft of the interim Regulation on the

management of the Turkestan region from 1867 Analyzing the judicial and legal history, we note that in 1887, by order of the Minister of Justice of Russia, regional prosecutors were created at the courts of the Syrdarya, Margilan and Samarkand regions, who were administratively subordinate to the Minister of Justice of Russia.

After the formation of the Uzbek SSR, based on the Criminal Procedure Code of the RSFSR of May 25, 1922, the first Criminal Procedure Code of the Uzbek SSR was adopted, which operated until 1959. On May 21, 1959, the new version of the Code of Criminal Procedure of the Uzbek SSR was adopted, which operated until the first days of our independence.

On September 22, 1994, the Code of Criminal Procedure of the Republic of Uzbekistan was adopted, and in connection with its introduction into force, the Code of Criminal Procedure of the Uzbek SSR of 1959 lost its force.

Above, we touched upon the judicial and legal system of Turkestan and its historical roots. Now let's pay attention to the existence of the function of accusation, defence and justice in the criminal process of democratic rule-of-law states.

This situation is reflected in the principles of the criminal procedure legislation of our country “on the administration of justice only by the court and on the adversarial nature of the proceedings in court” [2].

According to paragraph 6 of the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan dated December 19, 2003, No. 17 "On the practice of the courts' application of laws that ensure the suspect, the accused the right to defence", the adversarial principle implies the separate implementation of the functions of prosecution and defence. At the same time, the court cannot act on the side of the prosecution or the side of the defence and should not express any of their interests. The court, while maintaining objectivity and impartiality, must carry out the function of resolving the case, that is, provide the parties with equal opportunities to defend their positions by exercising procedural rights.

As our scientists noted in their research, “the functions of the criminal process can be conditionally divided into three types, in particular:

1) based functions (prosecution, defense, justice - case resolution, control);

2) optional functions (compensation for damage, securing a civil claim, establishing the cause of the crime and the conditions that contributed to its commission);

3) additional functions (supporting functions: the function of the secretary of the court session on drawing up the minutes of the court session, etc.)[3].

This means that the main functions of the criminal process such as prosecution, defence and justice are inextricably linked with each other, they are very thinly separated from each other.

At the same time, the accusation is an important function of the criminal procedure. Since, without the function of accusation, without accusing a person of committing a crime, neither defence nor justice is carried out.

It is necessary to note the popular expression of ancient Roman law: “Nullum crimen sine poena, nulla poena sine lege, nullum crimen sine poena legāli”. That is: "There is no crime without punishment, there is no punishment without law, there is no crime without legal punishment."

Researcher of the Russian Federation A. Kovaleva characterizes the accusation as "the starting point and driving force of the entire trial, since if no one accuses anyone, then there is no need for protection from accusation, as well as for the administration of justice" [4 ].

If we turn to Western experience, then in the Federal Republic of Germany the central concept of criminal procedure is “suspicion” [5]. German textbooks mainly focus on the concept of "suspicion", study it in every possible way and widely disclose it.

In German criminal law, the initiation of a preliminary investigation is linked to "suspicion". In particular: "When the prosecutor's office receives information about the commission of a criminal act based on a statement of the commission of the act or otherwise, it must examine the factual circumstances to decide whether a public charge should be brought" [6].

Russian researcher Y. Ploshkina believes that: “Suspicion plays a key role in the criminal process in Germany, serving as the basis for the initiation of a preliminary investigation, for the application of measures of criminal procedural coercion, as well as for the appearance in the process of various participants in criminal proceedings. Not only the German criminal procedural doctrine, but also judicial practice, and the legislator in criminal proceedings are guided by the doctrine of suspicion ”[7].

It should be noted that although according to German law, “suspicion” appears as a central concept in criminal proceedings, in Germany there is no such participant in the process as “suspect”. As a result of suspicion in the German criminal process, such participants as "the accused" and "the witness under suspicion" arise.

The notion of "charge" is also touched upon in the International Covenant on Civil and Political Rights of December 19, 1966, in particular: "Every arrested

person shall be informed upon the arrest of the reasons for his arrest and shall be promptly informed of any charges brought against him." Also, the International Covenant uses the term "accused" as a concept of a participant in a criminal process [8].

Our legislation contains such concepts as "suspicion", "charge", "suspect" and "accused", each of which is defined separately. The rights of the suspect and the accused are specified in separate norms of the criminal procedure law (Articles 46, 48 of the Criminal Procedure Code of the Republic of Uzbekistan).

Summing up, within the framework of covering the topic, we can conclude that the prosecution serves to improve criminal procedural law and regular reform of human rights and guarantees, such functions as prosecution, defence and justice are interconnected, the functioning of which independently testifies to the existence of the rule of law in society [9].

Improving one function will not only negatively affect the activities of justice, but will also lead to the loss of citizens' confidence injustice and the state. The practicality of procedural equality in court always ensures a fair trial.

Therefore, in our opinion, ensuring the independence of each participant in the criminal process, performing the function of prosecution, defence and justice, separating them from each other, especially proceeding from the principle of adversarial, the creation of equal rights and opportunities for the implementation of the functions of prosecution and defence guarantees justice.

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