

CHANGES IN THE ADVOCACY SYSTEM IN TURKESTAN (20S OF XX CENTURY)

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Abstract. The article describes the changes that took place in the activities of the legal profession in Turkestan after the establishment of Soviet power, based on a wide range of primary sources and historical literature. It analyzes the legal services provided by lawyers, their results, the establishment of local defense boards, and the legal documents adopted in the RSFSR and the Turkestan ASSR regarding the legal profession in the early 1920s.

Despite the Soviet state's implementation of measures to establish the legal profession in Turkestan, its activities remained unsatisfactory during this period. It became apparent that although the foundations of the Soviet legal profession were laid by the Bolsheviks, the main cadres within it were justice officials from the imperial period. Moreover, the majority of defenders who began working under the Bolsheviks were representatives of various professions without any legal education or experience.

Keywords: Turkestan ASSR, People's Commissariat of Justice, courts, public defenders, human rights advocates, bar associations, legal assistance.

Introduction. At the beginning of the 1920s, the Soviet bar primarily focused on two main activities: organizing legal consultancy work and representing defendants in court. However, due to various factors, defenders attended very few court sessions. For example, from January 1 to September 1, 1920, members of the Samarkand city defenders' collegium participated in 78 people's court sessions, 37 trials of the Council of Soviet People's Courts, and 15 trials of the revolutionary tribunal. In contrast, members of the Qattakurgan defenders' collegium only served as defense counsel in court sessions 11 times[1].

Research Methodology. The article employed the principles of historical research, objectivity, systematic, comparative analysis, as well as a problem and interdisciplinary approach.

Results and Discussions. During the analyzed period, defense attorneys were not given sufficient opportunity to conduct their activities freely in court proceedings. In particular, a similar situation was observed during the trial of Glebovich's criminal case, which was considered by the Supreme Revolutionary Tribunal on June 4, 1919[2]. It also became common for public defenders to demand additional fees from their clients due to shortfalls in monthly salaries.

In general, by the early 1920s, the system in which the defense panel had to act both as the accuser and the acquittal at the same time showed that it did not justify itself. The founders of the Soviet justice system had to openly admit this situation[3;21].

In June 1920, at the III meeting of the All-Russian Soviet justice workers, the activity of the defense collegium was summarized, and a decision was made to liquidate the



collegium[4]. According to the Decree adopted by the RSFSR MIQ on October 21, 1920, the activity of the "college of representatives of defenders, accusers, and parties in civil proceedings" was terminated[1;87]. Decree of the Council of Ministers of Ukraine of April 18, 1921, on the activity of this college in Turkestan[6], on the basis of which a check was made.

In the instructions issued by the People's Commissariat of Justice of the TASSR on November 28, 1920, the task of acquittal in the trial process is now established by the departments of justice, people's courts, councils of people's judges, revolutionary tribunals, the party, the council of trade unions, and other Soviet organizations, and twice a year by regional and city executive committees. It was shown that it would be implemented by citizens included in the list to be verified. Special attention is paid to the candidate's profession, level of education, seniority, party affiliation[7]. It should be noted that these criteria were applied only to applicants for acquittal in court proceedings related to criminal cases, and such requirements were not set for candidates who want to participate in court hearings related to civil cases. This situation undoubtedly became one of the main reasons for the decline in the prestige of the Soviet bar and the loss of public trust in them.

Although a number of measures were taken by the Soviet state to establish the legal profession in Turkestan, their activities remained unsatisfactory even during this period. Rachinsky, the officer in charge of the commissariat, in his inspection report on the activity of the justice bodies of the Fergana region (1921), notes as follows: "... the number of defenders in the region exists only on paper, and in reality, their activity has not been established at all"[8]. Alexin, a member of the Council of People's Courts of the Syrdarya region, stated in his report that the activities of defenders are properly organized only in the city of Tashkent, and they do not exist at all in the other uezds[9].

It can be seen that employees who are almost unfit for work due to a lack of personnel are not exempted from duty. In particular, Zaslavsky, a member of the board of public vindicators of Samarkand city, continued to do his job even though his eyes were almost blind, and one of his legs did not work at all[10].

In connection with the transition to the new economic policy, the existing vindicators, including the justice commissariat, were tasked by the Soviet government with explaining the essence of revolutionary legislation to the local population and providing them with free legal assistance on a large scale. Initially, these tasks were not performed on time due to insufficient organization of defenders' activities.

The above-mentioned mistakes and shortcomings showed the Shura government the need to expand the activities of defenders and turn them into a separate state body. This issue was discussed at the 9th meeting of All-Russian judicial officers held on January 26-30, 1922 [11;38]. and on May 26, 1922, on the basis of the resolution adopted at this meeting, the "Regulation on Advocacy" was approved by the RSFSR MIQ[12;21]. Also, on July 5, 1922, the People's Commissariat of Justice of the RSFSR developed the "Regulation on the Bar Association" [13;11-16]. In the territory of TASSR, these regulations entered into legal force with the decision of the MIQ dated October 29, 1922, No. 131[14].

It should be noted that the adoption of these legal documents marked a new stage in the activity of the Soviet bar. In particular, the Bar Association now began to function as a self-governing public organization under regional justice departments (later regional courts). The General Council of the Bar Association was designated as the highest body of the collegium. At the general council, all issues related to the activities of the lawyers' association (setting



contributions to the lawyers' fund, organizing legal assistance to the population, etc.) were discussed.

For a period of one year, a special role in the activities of the Bar Association was assigned. The members of the presidium ranged from three to seven people and were considered an executive and administrative body. They mainly performed tasks such as admitting new members to the association or expelling them, supervising the performance of the tasks set by the members of the collegium, determining the procedure for providing paid and free legal assistance, organizing legal assistance consultation points, determining the procedures for using the property and funds of the collegium[15]. In addition, the Presidium has the authority to issue a warning to members of the collegium if they commit acts contrary to the established rules, to impose fines on the collegium fund, and to apply disciplinary measures such as lifetime or fixed-term exclusion from the collegium membership.

In accordance with the "Regulation on the Bar Association," persons who have at least two years of experience in the positions of judges, investigators, lawyers, court advisors in the Soviet justice system, or who have passed an examination organized by a special commission[16], were admitted to the membership of the association. But as a result of the lack of Soviet lawyers in TASSR, such a procedure was almost never followed. There continued to be a persistent shortage of skilled defenders in the regions. Such a situation can be seen in the statement of Osipov, Kritskyi, Belyaev, and Kartashev, members of the Bureau of the Board of Defenders of the Syrdarya Region, about the situation of lawyers in the region, written to the State Committee of the Russian Federation in 1922[17]. In general, in 1922, in the Republic of Turkestan, there were 5 regions, 5 uezd defenders' colleges, in which a total of 113 defenders worked[18]. The members of the Bar Association are distributed by regions as follows: 45 in Tashkent uezd of Syrdarya region, 3 in Avliyoota, 2 in Shymkent, 22 in Turkestan, 15 in Samarkand uezd of Samarkand region, 1 in Khojand, 2 in Kattakurgan, 3 each in Andijan and Kokand uyezds of Fergana region, Namangan, Margilan, Fergana. and 1 lawyer worked in Osh uyezds[19].

The members of the bar association participating in the court proceedings were given the right to meet with the accused, get to know the case, and obtain the necessary information from him. If necessary, they could call additional witnesses and submit a request for expert examinations, give a defense speech, comment on the minutes of the court session, and file a complaint against the issued court decision. During the analyzed period, the defenders were not able to use these powers in court proceedings in many cases.

The members of the collegium received a certain amount determined by the court for their participation in court proceedings. It was collected by the accused and transferred to the budget of the republic according to the estimate of the commissariat. According to the "Regulation on the Bar Association," lawyers are paid a fee of 5% for participation in court proceedings in civil cases, while the fee for criminal cases is determined according to the level of the case. Lawyers had to hand over 3 percent of the fee paid after each trial to the collegium fund [20;13].

In April 1923, the "Regulation on the structure of the court in TASSR" stipulated that the members of the bar association should provide free legal assistance to the population in places designated by the presidium of the commissariat or regional courts, in addition to participating in the courts. The counseling centers are mainly established in markets, red tea houses, factories and factories, farmers' houses, railway clubs, and other densely populated places.

It should be mentioned that although the introduction of the system of providing free legal advice by the bar association was an important step in the field of legal assistance to the population, in the territory of Turkestan, lawyers provided legal assistance only to the population in the regional centers[21]. From 1923 to February 1924, the members of the Syrdarya region defense collegium provided free legal aid to 407 citizens, most of whom were related to criminal cases[22]. For comparison, the Bar Association of Enisei province had 35 members and provided free legal services to 223 citizens during 4 months of 1924 [23;786].

On April 23, 1924, a special circular of the Commissariat of Justice of the RSFSR on strengthening the provision of legal assistance to the population was published [24;91]. This legal document served to revive the work of providing legal assistance to the population in the Turkestan ASSR. In particular, the members of the Bar Association of Syrdarya region decided to carry out explanatory work on legal services in 12 cities, villages, and settlements. Also, at the executive committee of Tashkent uezd, mainly local residents were given legal advice four times a week. Collegium members Dostmukhammedov, Ibragimov, Charkovskii, and Bronshteins were appointed to be responsible[25].

Free legal assistance to the population has partially revived in Tashkent compared to other regions of the country. In particular, legal assistance is provided to residents three times a week from 17:00 to 20:00 at the consultation center located at 10 Asaka Street. During the month of January 1924, 61 citizens were given legal advice on various issues in the center, 51 of which were provided free of charge. It can be seen that the level of providing free legal aid was also high during the remaining months[26].

Table 1

T/r	The specified period	Free	Paid	Total
1	april	54	25	79
2	may	63	19	82
3	june	58	28	86
4	july	89	29	118
5	august	74	34	108
6	september	63	17	80
7	october	68	20	88
8	november	56	17	73

This aspect played an important role in the introduction of proletarian legislation to the Soviet government. However, a number of factors prevented the Bolsheviks from carrying out such activities on a large scale throughout the country. Additionally, the circular set guidelines for increasing the defense team and its members (primarily lawyers of local nationality). However, during the period under study, lawyers belonging to the local nationality remained a minority. For example, in 1924, 14.2% of the total members of the Bar Association of Syrdarya region were representatives of the local nationality[27].

It should also be mentioned that although the foundations of the Soviet bar were laid by the Bolsheviks, the main cadres in them were justice officials of the imperial era. In particular, 75 of the lawyers working in the country in 1923-1924 were comprised of such employees. Most of the defenders of the Soviet state were bakers, secretaries, teachers, veterinarians, shoemakers, and other professions without any legal education or experience.

On March 17, 1924, Justice Commissioner Gaziev's Circular No. 22 was adopted in order to regulate the activities of the "College of Advocates" in the country[28]. During this

period, there were 106 lawyers in Turkestan ASSR, and when they were divided by regions, 52 were registered in Syrdarya, 18 in Samarkand, 14 in Ettisuv, 9 in Fergana, and not a single defender was registered in the Amudarya region[29;170].

Conclusion. Thus, the attempt of the Bolshevik elite to create a legal institution completely different from the 'bourgeois lawyer's office' did not have the expected effect. Eventually, by the early 1920s, a system was established that was almost identical to the legal profession of capitalist countries."

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