

PROBLEMS OF INTERACTION between the BAR AND STATE AUTHORITY OF THE REPUBLIC OF UZBEKISTAN

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Abstract

The article examines the peculiarities of human rights protection in criminal cases and the role of a lawyer at various stages of the criminal process. The relevance of the study is related to the need to ensure standards of fair trial guaranteed by international law and national legislation. The IMRAD method is applied, structuring the research into stages: introduction, methods, results, and discussion. The results of the study show that a lawyer plays a key role in ensuring the protection of human rights during the stages of preliminary investigation, trial, and sentence execution. The article also provides recommendations for improving legal mechanisms for human rights protection in criminal cases.

Keywords: human rights, criminal process, lawyer, defense, fair trial.

Introduction

The protection of human rights in criminal proceedings is one of the key tasks of a democratic society. International and national legal norms set the standards that criminal justice must meet in order to ensure the rights of the accused. One of the key participants in the process called upon to protect these rights is the lawyer. The role of a lawyer is not only to provide qualified legal assistance, but also to ensure that human rights are respected at various stages of the criminal process, from detention to sentencing. [1].

The relevance of this topic lies in the need to analyze the problems of interaction between the legal profession and state power in Uzbekistan in the context of reforms aimed at improving the legal system. The article will consider the current state of the legal profession, its independence, as well as the problems that lawyers face in the performance of their professional duties. The main attention will be paid to the legal analysis of these problems and proposals for their solution [2] [3].

Method

To analyze the role of a lawyer in ensuring the observance of human rights in criminal cases, the following methods were used: study of international norms (for example, the European Convention for the Protection of Human Rights and Fundamental Freedoms) and national legislative acts regulating the criminal process; a comparison of the protection of human rights in different jurisdictions, with a focus on the practice of the European Court of Human Rights



and the judicials of national systems; study of judicial practice and conclusions of doctrinal sources to identify patterns and problematic aspects.

These methods made it possible to identify existing problems in the legal regulation of advocacy, as well as to offer solutions based on international experience and the needs of the national legal system.

Results

1. Protection of human rights at the stage of preliminary investigation

At the stage of preliminary investigation, the role of the lawyer is especially important. According to international standards, in particular the International Covenant on Civil and Political Rights (ICCPR), the right of every person detained on suspicion of having committed a crime to the assistance of a lawyer must be ensured immediately (Article 14 of ICCPR). The European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 6) also requires that every accused person has the right to legal assistance from the moment of detention.

Studies show that the presence of a lawyer at the stage of preliminary investigation reduces the risk of obtaining evidence under duress or as a result of unacceptable pressure on the accused. For example, P. Roberts and J. Hunter notes in his works that it is during interrogations that violations often occur related to the use of physical and psychological pressure on suspects [6]. Counsel plays an important role in preventing such violations, ensuring that interrogations are conducted in accordance with the law and that the accused is informed of his or her rights, such as the right to remain silent and to protect himself from self-incrimination.

In addition, L. McDermott's research emphasizes that the presence of a lawyer at the early stages of the investigation increases the chances of a favorable outcome of the case for the accused [7]. In States where access to a lawyer at the stage of detention is limited or non-existent, cases of coerced testimony and subsequent violations of the right to a fair trial are more often recorded.

2. The role of the lawyer at the stage of trial

At the trial stage, the lawyer plays a crucial role in ensuring a fair trial. He represents the interests of the accused, challenges the evidence presented by the prosecution, and ensures the observance of procedural rights [8].

The lawyer defends the accused and ensures the observance of his procedural rights. An important task of the lawyer is to represent the interests of the accused before the court, challenge the evidence presented by the prosecution, and ensure the protection of rights, such as the right to the presumption of innocence. This is particularly relevant in the context of the application of international standards for the protection of human rights, such as article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (the right to a fair trial).

As D. Hodgson notes, the presence of a qualified lawyer can significantly affect the outcome of the case, since the lawyer is able to effectively challenge evidence obtained with violations, and seek the exclusion of such evidence from the case[9]. In practice, the lack of competent defense often leads to judicial errors, which is confirmed by the decisions of the European



Court of Human Rights, for example, in the case of **Salduz v. Turkey**, where it was established that the absence of a lawyer at the interrogation stage led to a violation of the right to a fair trial.

In addition, the protection of the right to equality of arms is a key aspect of the lawyer's work at the trial stage. A lawyer must have equal opportunities with the prosecution to present evidence and arguments in court. In his research, N. Gaillard points to the importance of equal access of lawyers to the case materials and the possibility of interrogating prosecution witnesses, which is critically important for the observance of human rights at this stage [10].

3. Protection of human rights in the execution of sentences

The work of a lawyer in the execution of a sentence also plays a significant role in ensuring the rights of convicts. Despite the fact that this stage is considered to be less active in terms of defense, the lawyer continues to have an important impact on the protection of human rights, especially in the context of international norms, such as the prohibition of inhuman treatment and torture enshrined in Article 3 of the European Convention and the UN Convention against Torture.

The lawyer participates in the process of appealing the verdict, representing the interests of the convict in the appellate instances. According to M. Kelly, a lawyer should actively protect the rights of the convicted person at all stages, up to appealing the verdict and reviewing cases in international courts. This applies not only to the appeal process, but also to ensuring the rights of the convicted person in prison. The lawyer must ensure that the conditions of detention of convicts meet the standards provided for by international law.

Fallon's work emphasizes that lawyers should have free access to their clients in prisons to monitor conditions of detention and prevent violations of rights, such as the prohibition of torture and the right to humane treatment. In countries where post-sentencing legal aid is limited, cases of unlawful acts in places of deprivation of liberty, such as torture and inhumane conditions of detention, are more common [8].

Discussion

The study showed that the lawyer is a key figure in ensuring the observance of human rights at all stages of the criminal process. At the same time, the effectiveness of its work depends on a number of factors, such as access to information, the independence of the judiciary and the level of training of the lawyer himself. An important aspect is to ensure access to qualified legal assistance at the early stages of an investigation, as it is at this stage that the most serious human rights violations often occur.

Problems and challenges

Despite the existing mechanisms for the protection of human rights, in practice there are cases when the rights of the accused are violated due to insufficient training of lawyers, pressure from the investigating authorities or judicial errors. It is necessary to improve the level of training of lawyers, strengthen their independence and ensure their participation at all stages of the criminal process [7].



Conclusion

The protection of human rights in criminal cases requires the active participation of lawyers at all stages of the process. The role of the lawyer is to ensure that the rights granted by both international and national law are respected and to prevent any attempt to violate them. The results of the study show that high-quality legal aid significantly increases the likelihood of a fair trial and respect for human rights.

The role of the lawyer in the protection of human rights at all stages of the criminal process is key. A lawyer not only provides legal assistance, but also ensures that the rights guaranteed by international and national regulations are respected. Effective protection of human rights is possible only with the participation of a qualified lawyer who can resist violations and ensure a fair trial.

Recommendations

1. Strengthening the training of lawyers in the protection of human rights.
2. Increasing the independence of lawyers from pressure from the state.
3. Developing programmes to ensure equal access to legal aid for all accused.

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