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Theoretical and legal historical analysis of prosecutorial supervision over the implementation of laws in the field of combating illicit trafficking in narcotic drugs and psychotropic substances

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Abstract: Based on a historical approach, the article contains prosecutorial supervision of the implementation of laws in the field of combating illicit trafficking in narcotic drugs and psychotropic substances, which was conditionally divided into four stages of the formation and development of counteraction to drug trafficking. Through a comprehensive study of the retrospective theoretical and legal analysis of the prosecutor's supervision over the implementation of laws in the fight against drug trafficking carried out by the prosecutor's office. The author cites the opinions of scientists regarding their scientific research on the theoretical and scientific analysis of prosecutorial supervision of the implementation of laws, depending on emerging situations in the practical activities of the prosecutor's office.

Keywords: Theoretical, historical analysis of prosecutorial supervision, illicit trafficking in drugs and psychotropic substances, prosecutor, supervision of the implementation of laws, algorithm of actions.

Introduction: Uzbekistan has demonstrated a commitment to implementing strategic measures to mitigate the adverse health implications of narcotics and psychotropic substances on the population and the nation's gene pool. This commitment involves the

suppression of illicit trafficking within Uzbekistan. The primary entity responsible for the coordination of efforts to combat illicit drug trafficking is the prosecutorial authorities, which oversee the enforcement of the law in combating drug trafficking.

The efficacy of prosecutorial oversight in enforcing legislative norms to combat drug trafficking is predominantly influenced by the established procedure (i.e., algorithm) of actions undertaken by prosecutorial bodies in executing this oversight function. This procedural aspect, in turn, affects the content and specificity of legal norms that regulate both the strategic and tactical issues of countering illicit trafficking of narcotic drugs and psychotropic substances.

In order to comprehend the fundamental role of the prosecutor's office in combating illicit drug trafficking, it is necessary to briefly examine the office's supervisory functions in implementing legal measures against such trafficking.

The utilization of narcotic substances by humans possesses profound historical origins, dating back to antiquity. Researchers of criminal law posit that the first cases of drug use occurred as early as 40,000–10,000 years BC. In India, hemp, a plant containing narcotic drugs, was mentioned in the 14th to 20th centuries BCE. In ancient Egypt, narcotic substances were used during the reign of Ramses I. In Europe, hemp was introduced by the Scythians approximately 5,000 years ago [1, p. 153].

Throughout the documented history of Central Asia, where modern Uzbekistan is located, cultivation and consumption of narcotic substances have been a characteristic feature of social life. This applies to all state formations that existed in this territory in different periods: from the Persian Empire and Greco-Bactria (6th-4th centuries BC), the Kushan Kingdom, Parthia, Kangyu, the Ephthalite state and the Turkic Kaganate (2nd century BC - 7th century AD), to the Arab Caliphate (7th-12th centuries BC), the Chagatai ulu (2nd century BC - 7th century AD), the Chagatai ulu (2nd century BC - 7th century AD), and the Arab Caliphate (7th-12th centuries BC), the Chagatai ulus of the Mongol Empire (12th-13th centuries), the Timurid State (14th-16th centuries), the Khanates of Khiva and Kokand, the Emirate of Bukhara (16th - mid-19th centuries), the Turkestan Governor-General's Office of the Russian Empire (19th-20th centuries), the Uzbek SSR (1917-1991) and the modern Republic of Uzbekistan (since 1991).

The criminalization of drug trafficking has a complex history intertwined with a multitude of social, economic and legal factors. The development of

legislation and law enforcement practice has gone hand in hand with changing public attitudes towards drugs, understanding of their impact on health and society, and attempts by states to control drug trafficking and enforce the law through prosecutorial oversight.

The criminalization of drug trafficking is a multifaceted phenomenon, intricately interwoven with a myriad of social, economic, and legal factors. The evolution of legislation and law enforcement practices has been intricately intertwined with shifting public attitudes concerning drugs, the comprehension of their ramifications on health and society, and the endeavors of states to regulate drug trafficking and enforce the law through prosecutorial oversight.

The establishment of the prosecutor's office was driven by the necessity of overseeing and enforcing legal mandates. The prosecutor's office, as an institution of state power, first emerged in France, established by an ordinance of King Philip IV on March 25, 1302. Subsequently, in 1586, French legislation formally established the structure and operations of the prosecutor's office, thereby delineating its position within the broader framework of state institutions. According to the provisions of the aforementioned legislation, the prosecutor's supervisory prerogatives encompassed the following domains: administrative and political functions, the oversight of investigative proceedings, and involvement in judicial and legal proceedings [2, p. 14].

From a historical perspective, the supervision of law enforcement in the fight against illicit trafficking of narcotic drugs and psychotropic substances by prosecutors can be divided into four distinct stages.

First stage: The period extending from the origin of human society to the beginning of the 20th century is of particular interest in the context of the study of drug use. During this era, the dangerous properties of containing narcotic substances were established, marking the inception of the modern understanding of these substances.

For millennia, humankind has engaged in the use of narcotic and psychotropic substances for a variety of purposes, including ritual, medical, and recreational activities. However, it was not until the early twentieth century that these practices were criminalized or penalized. The advent of drug regulation can be traced back to the nineteenth century, a period marked by the recognition of the hazardous nature of substances such as opium and cocaine.

Second stage: The period under consideration extends from the early twentieth century to the mid-twentieth century, marking the advent of grounds for criminal liability and the advent of the technology of

prosecutorial supervision of illicit trafficking in narcotic drugs and psychotropic substances.

In the early 20th century, as awareness of the harms associated with drugs and addiction increased, efforts to regulate them began to take shape. In 1909, an international conference was convened in Shanghai, where the initial measures to regulate opium were adopted. In 1912, the Hague Convention was signed, which restricted the international drug trade. During the 1930s, numerous countries initiated the implementation of their respective drug legislation. Subsequently, in 1971, the Convention on Psychotropic Substances was adopted to regulate the handling of psychotropic drugs.

Third stage: In the latter half of the 20th century, significant advancements were made in the realm of law enforcement and criminal justice. These developments focused on enhancing the procedural order, investigation techniques, and prosecutorial supervision of illicit trafficking in narcotic drugs and psychotropic substances.

Since the 1970s, concerted efforts have been made to counteract the illicit drug trade. Separate legislative acts were passed that delineated narcotic drugs and psychotropic substances by type, based on their narcotic content. During this period, there was a notable increase in the number of crimes associated with illicit trafficking of narcotic substances.

Fourth stage: In the modern period, spanning from the late 20th to the early 21st century, there has been an enhancement in the efficacy of the prosecutor's oversight mechanisms in addressing the illicit trafficking of narcotic drugs and psychotropic substances.

A thorough analysis of the present state of affairs reveals that the illicit trafficking of narcotic drugs and psychotropic substances has evolved into a pervasive problem. The rise in drug trafficking within Afghanistan and Latin American countries has prompted a concerted response from the international community, with efforts being made to combat the issue.

Law enforcement structures such as the United Nations Office on Drugs and Crime (UNODC, or UNODC) and the Drug Enforcement Administration (DEA) — an agency within the U.S. Department of Justice dealing with the fight against drug trafficking — have been established around the world. These structures focus on the fight against organized crime and drug trafficking. In the current era, there has been a shift in the approach to trafficking in narcotic drugs and psychotropic substances. In the context of drug policy, certain nations, including Portugal, have

adopted a decriminalization approach, which involves the substitution of criminal penalties with treatment interventions. This approach has yielded favorable outcomes, including a reduction in addiction and related criminal activity. Additionally, there has been a surge of interest in the medical use of cannabis and other psychotropic substances, which necessitates a thorough legislative review.

A retrospective analysis of prosecutorial oversight of law enforcement in the area of illicit trafficking in narcotic drugs and psychotropic substances demonstrates that this phenomenon is influenced by social, economic, and political factors. The realm of criminal liability for drug trafficking is undergoing a period of significant evolution, with contemporary approaches necessitating a comprehensive consideration of various factors. These include, but are not limited to, the protection of society, the promotion of human health, and the safeguarding of individual rights. In this regard, the role of the prosecutor in overseeing the enforcement of laws pertaining to the illicit trafficking of narcotic drugs and psychotropic substances assumes a multifaceted character. This oversight is undertaken with the objective of ensuring the protection of citizens' rights, maintaining the rule of law, and fostering a sense of order within society.

The prosecutor's oversight of the implementation of legislation pertaining to the illicit trafficking of narcotic drugs and psychotropic substances is a subject that has been examined from the perspectives of processualists, criminologists, and criminologists. This examination has been conducted in two distinct aspects. The initial facet pertains to the notion of prosecutorial supervision, which constitutes a distinct form of supervision during the phases of pre-investigation, inquiry, preliminary investigation, and judicial proceedings. The objective of this supervision is to enhance the efficacy of procedural order and criminalistic tactics. The second facet of the prosecutor's oversight entails the implementation of preventive measures aimed at mitigating the societal harms associated with illicit trafficking in narcotic drugs and psychotropic substances.

These aspects impose certain organizational difficulties for the qualitative and effective implementation of prosecutorial supervision over the execution of laws in the field of combating illicit drug trafficking. In order to comprehend the fundamental nature of this form of supervision within the context of law enforcement activities conducted by prosecutor's offices, it is imperative to consider the overarching provisions that pertain to the supervisory functions of these entities.

The majority of scientists specializing in prosecutor's supervision have expressed the opinion that there are

grounds for recognizing the norms regulating prosecutor-supervisory relations as an independent branch of law. Conversely, others argue for the opposite point of view. V.I. Rokhlin's position is that this is a separate branch of law (3, p. 23). He argues for this position by noting that the legal regulation of the prosecutor's supervision contains all the necessary features and elements that are characteristic of an independent branch of law.

It is imperative to acknowledge the prosecutor's supervision as a distinct arm of the legal apparatus that is inherently associated with the endeavor to combat illicit trafficking in narcotic drugs and psychotropic substances. It is a well-established fact that the majority of drug trafficking is carried out in the form of transnational organized crime. The theoretical, organizational, and legal underpinnings of the activities of organized criminal formations were examined by I. Ismailov [4, p. 47].

In essence, the supervision of the enforcement of laws in the fight against illicit drug trafficking by prosecutors can be defined as a professional activity of the prosecutor's office. In essence, the aforementioned entities oversee the precise execution of assigned tasks, ensuring adherence to legal obligations. In the event of transgressions, they are tasked with implementing measures to ensure compliance with the rule of law, thereby ensuring that those responsible are held accountable.

This assertion is made by A.Yu. As stated by Vinokurov [5, p. 12], the essence of prosecutorial supervision can be defined as a distinct form of state activity, characterized by its objectives and the unification of the prosecutor's office system. However, significant disparities emerge within the purview of prosecutor supervision, stemming from the idiosyncrasies inherent in the legislation subjected to oversight, the heterogeneity of entities responsible for its implementation, and, consequently, the variances in the prosecutors' authorities.

In order to comprehend the fundamental principles of the subject under investigation, it is imperative to draw parallels with a prevalent scenario in the operations of investigative entities. In the course of the investigation into the possession of narcotic drugs by a citizen, a criminal case of possession was initiated under Article 276 of the Criminal Code of the Republic of Uzbekistan. However, no measures were taken to identify the individuals who had sold the citizen the narcotics in question. Consequently, the source from which the drugs were procured could not be ascertained. The supervising prosecutor revealed this fact in a timely manner and provided written instructions to the

operative units of the criminal investigation department to identify the individuals involved in the drug trade. However, these individuals were not identified, and the case was separated into a separate proceeding and subsequently suspended.

In addition to the oversight exercised by the Ministry of Internal Affairs through its Criminal Investigation and Investigations Department, there is also departmental control over direct compliance with criminal procedure legislation. This control is exercised by the aforementioned department, as well as by the relevant territorial units of the criminal investigation service and the agencies conducting pre-investigations, initial inquiries, and pretrial investigations. It is also exercised by information and analytical work and coordination of the activities of law enforcement agencies in combating illicit drug trafficking.

In light of the aforementioned general provisions pertaining to the conceptualization of prosecutor's supervision, complemented by the insights derived from practical experiences, the formulation of a position on the essence of prosecutor's supervision over the enforcement of drug trafficking legislation must prioritize the delineation of the object and subject.

A thorough examination of the extant literature on the subject of prosecutorial oversight reveals a dialectical relationship between the concept of oversight and that of its object. Frequently, these concepts are used interchangeably.

In this regard, it is our opinion that a theoretical and legal analysis of the prosecutor's supervision over the execution of laws in the field of combating illicit drug trafficking is impossible without their definition of the object and subject. Therefore, following a comprehensive investigation into the fundamental objectives of prosecutor oversight, and more specifically, the scope of prosecutor supervision over the implementation of legislation pertaining to drug trafficking, it is possible to formulate a conclusion regarding the nature of the subject matter of this particular form of supervision.

A review of the scientific literature reveals a lack of consensus regarding the definition of the subject and object of prosecutorial supervision. This perspective is consistent with the viewpoint previously expressed by A.Yu. According to the literature, the term "prosecutorial supervision" refers to a system in which a prosecutor oversees a particular group of individuals or entities. These individuals or entities are subject to the prosecutor's oversight, and their actions fall within the purview of prosecutorial supervision [7, p. 1111–1117].

According to V.P. Ryabtsev, the specified set of legal

entities and officials subject to the competence of prosecutors is defined as the object of prosecutorial supervision [8, p. 16].

In light of the prosecutor's oversight of law enforcement activities pertaining to the suppression of illicit drug trafficking, it is imperative to ascertain the organizational framework governing the practical actions of prosecutor's offices. According to A.F. Smirnov, the algorithm of organization and activities of the prosecutor's office is related to experience in the implementation of prosecutorial oversight [9, p.7].

As a result of the analysis of literary sources, it is possible to distinguish several positions regarding the understanding of the object of prosecutorial supervision. A number of scientists, including F.H. Alimov [10, p. 25] and E.D. Boltoshev [11, p. 189], posit that the subjects of supervision are officials whose activities are overseen by the prosecutor. In such cases, the subjects are endowed with the requisite authorities and are subject to the oversight of the prosecutorial apparatus. This position is supported by the provisions of Article 1 of the Procurator's Office Act, which stipulates that the Procurator-General and his subordinate procurators are responsible for ensuring the uniform and precise implementation of legal principles within the territory of the Republic of Uzbekistan.

Article 2 of the Procurator's Office Act elucidates that the primary responsibilities of the procuratorial authorities are to guarantee the implementation of the rule of law and to fortify it. A.A. Matchanov adheres to the opinion that the algorithm of technology algorithm of law enforcement for uniform execution of laws by the prosecutor's office is the object of prosecutorial supervision[12, p.12]. V.F. Kryukov[13, p.34] also considers the legality of the activities of the bodies supervised by the prosecutor's office as an object of supervision.

It is crucial to acknowledge that the purview of the prosecutor's oversight does not encompass the entirety of the official operations conducted by the entities under their supervision. This is due to the inherent distinction between supervision and control, which are distinct functions within the prosecutor's office. As articulated in [14, p. 53], the substitution of supervision by control is not an inherent element of the prosecutor's role. A scientific study was conducted on the essence of control and supervision by D.M. Mirazov, who defined the difference between these concepts [15, p.].

The prosecutor's supervisory algorithm is predicated on the notion that, from a philosophical perspective, the object is conceptualized as "a form of realization in

concepts of universal ways of human relations to the world, reflecting the most general and essential properties, laws of nature, society, and thinking" [16, p. 237]. The object is defined as the entirety of reality that falls within the domain of perception, rather than focusing on the specific attributes or characteristics of reality. The object is defined as an entity that functions in opposition to the cognizing subject, existing independently of it[17, p.5].

It is our position that, in accordance with the aforementioned assertions concerning the object, a specific official constitutes a component of the object of supervision. However, it is essential to acknowledge that this component, in isolation, is incapable of encapsulating the entirety of the essence inherent to the category under scrutiny.

A theoretical and legal analysis of the prosecutor's supervision over the execution of laws in the sphere of combating illicit drug trafficking is imperative to understand the essence and content of the prosecutor's supervisory activity in this regard. The object and subject of supervision are fundamental categories in this analysis. In her research, U.A. Tushtasheva examined criminal procedural methods for addressing judicial errors, which can be attributed to the prosecutor's criminal procedural activities.

A rigorous theoretical and legal examination of prosecutor supervision indicates the necessity for amendments to the prevailing legislation governing the activities of the prosecutor's office. In conjunction with the implementation of the revised Constitution of the Republic of Uzbekistan, it is hereby proposed to amend the phrasing of paragraph 1, part 8 of Article 5 of the Law of the Republic of Uzbekistan "On the Prosecutor's Office" to the following: "Prosecutors of the Republic of Karakalpakstan, regions, the city of Tashkent, districts, and cities: It is incumbent upon the Kengashes of the People's Deputies to submit their respective reports on activities to the Jokargy Kenes of the Republic of Karakalpakstan on an annual basis.

Accordingly, the theoretical and legal analysis of procuratorial oversight of law enforcement in the fight against illicit drug trafficking is predicated on the establishment of the object and subject of procuratorial oversight of law enforcement in this area.

It is also noteworthy that, in accordance with paragraph 4, part 1, article 4 of the Law of the Republic of Uzbekistan "On Prosecutor's Office," one of the primary functions of the prosecutor's office is to oversee the operations and investigations conducted by various bodies, including pre-investigation, inquiry, and preliminary investigation activities.

In light of the aforementioned evidence, it can be

deduced that the manner in which the prosecutor oversees the implementation of legislation pertaining to illicit trafficking of narcotic drugs and psychotropic substances is not an arbitrary phenomenon. Rather, it is a product of a historical process that has shaped the evolution of legal and social institutions in this domain. A thorough examination of the notions of "object" and "subject" in the context of the specific type of supervision under consideration is essential for comprehending the theoretical and legal underpinnings of the prosecutor's oversight in the realm of combating illicit trafficking in narcotic drugs and psychotropic substances.

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