HISTORICAL AND LEGAL DEVELOPMENT OF CRIMINAL LEGISLATION THAT ESTABLISHES LIABILITY FOR ILLEGAL POSSESSION OF FIREARMS, AMMUNITION, MAIN PARTS OF FIREARMS, EXPLOSIVES, EXPLOSIVE **DEVICES OR EXPLOSIVE DEVICES**

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Annotation: This scientific article analyzes the stages of historical and legal development of criminal legislation that establishes liability for illegal possession of firearms, ammunition, main parts of firearms, explosives, blasting agents or blasting devices, and based on the analysis, it is highlighted how many periods the historical and legal development of this crime is divided into to date.

Keywords: criminal law, retrospective, history of legal development of criminal legislation, ancient period of Uzbek national law, period of Islamic law, Amir Temur period, Babur period, period of development in Tsarist Russia, period of Soviet rule, Criminal Code of the RSFSR, Criminal Code of the Uzbek SSR, Criminal Code of the Russian Federation, Criminal Code of the Republic of Uzbekistan.

On March 26, 2021, the Decree of the President of the Republic of Uzbekistan No. UP-6196 "On Measures to Raise the Activities of Internal Affairs Bodies in the Field of Ensuring Public Safety and Combating Crime to a Qualitatively New Level" was adopted. According to the Decree, the formation of an integrated system for ensuring public safety, preventing offenses and combating crime, and the organization of effective activities of internal affairs bodies from the lowest level to the republican level are envisaged, and the introduction of modern working methods and legality, ensuring the peace and tranquility of the population.

In the formation of a unified system for combating crime, special attention should be paid to strengthening legality. Because currently, one of the important tasks in our country is the prevention of crimes related to the illegal acquisition of firearms, ammunition, the main parts of firearms, explosives, explosive devices, or explosive devices.

This type of crime is often committed intentionally by individuals preparing to commit serious crimes or crimes related to terrorism, which creates an opportunity to bring their criminal actions to an end. In most cases, crimes against the life and health of individuals, as well as for the purpose of theft of their property (murder, intentional infliction of grievous bodily harm, robbery, robbery, and defamation, etc.) may be committed.

When studying the historical and legal development of criminal legislation, which establishes liability for illegal possession of firearms, ammunition, main parts of firearms, explosives, explosive devices or explosive devices, we consider it necessary to consider the opinions expressed by scientists about the importance of studying, first of all, the history of the legal development of criminal legislation. Including:

As M.M. Qalandarov noted, "The main purpose of studying the history of the legal development of criminal legislation is to create an opportunity to analyze the development of criminal legislation and the positive changes taking place in the life of society today, taking into account that the sources of criminal law reflect certain stages of the development of our



state, with an objective and deep understanding of the essence of the events taking place in society"[1].

P.K. Krivoshein defines this as follows: "A retrospective approach to any phenomenon, that is, understanding how it appeared, which stages it has gone through, allows us to determine the current state of this phenomenon and the prospects for its future development"[2].

"Every major issue of our time, regardless of the sphere of life, including in the sphere of state and legal development, cannot be effectively resolved without taking into account, effectively using, and deeply studying existing historical experience. Without knowing the events of the past, it is impossible to understand the present reality correctly, to see the future"[3].

A.Kh. Saidov emphasizes that "it is precisely the modern theoretical positions created by the experience of the past that help to predict and place the future stages of its historical evolution"[4].

The historical method of analysis has not only practical, but also theoretical significance in determining the essence of current legislation, since it..."strengthens the foundations of scientific theory and reflects its proportionality to national legislation and traditions in society, or, weakening the above-mentioned foundations, manifests its alienation from national legislation and traditions in society"[5].

Of course, historical and legal analysis is of particular importance in determining how criminal liability for the illegal possession of weapons has been formed and is developing.

In legal literature, the Uzbek national legal system with a long history is divided into:

- 1) the ancient period of Uzbek national law, that is, the stage before the introduction of Islamic law in the territory of Uzbekistan (from the beginning of the first millennium BC to the 7th century AD), or in other words, the period of Turan-legal civilization;
- 2) the period of Islamic law, that is, the stage from the introduction of the Islamic religion to the invasion of Tsarist Russia (from the 7th century to the second half of the 19th century) or the period of the Muslim-legal civilization of Movarounnahr;
- 3) the period of development of Uzbek national law under the colonial rule of Tsarist Russia, that is, the period from the conquest of the Kokand and Khiva khanates and the Bukhara Emirate by Tsarist Russia to the formation of the Uzbek SSR (from the second half of the 19th century to 1924);
- 4) the period of the Soviet system, that is, the period of the totalitarian system of the development of Uzbek national law (from 1924 to 1991);
- 5) the modern period of development of uzbek national law, i.e., 1991. September 1 - From the day of independence of the Republic of Uzbekistan to the present period[6].

From historical sources on statehood, it is known that since the emergence of humanity on Earth, initially (during the primitive communal period), various weapons (hunting weapons, labor weapons, means of self-defense from external danger) were used to ensure its personal, economic, and social security[7].

The Avesta is of great importance in the study of the law of the peoples of Central Asia of the ancient period of the first half of the 1st millennium BC. In addition, customary law, written legal sources during the Achaemenid period, A. Macedonian and Greco-Bactrian kings, and Greco-Roman law in the Seleucid state and Parthia may have partially operated. In the

inscriptions of Darius on the Behistun cliffs, in the books of the Achaemenid kings, there is information about the introduction of "laws" in the conquered lands. In several poems of the "Avesta," the rules of behavior required between people, family-marriage issues, crime and punishment, especially, instructions about procedural norms ordaliya (testing, checking) are noteworthy[8].

The legal views in the "Vendidod" notebook (book) of the Avesta are conditionally classified as follows:

- 1. Crimes against religion: gayridin bilan nikohga kirishi kohinni haqoratlash, mansabni suiiste'mol qilish;
- 2. Crimes against a person: hujum, tahdid solish, homilani tushirish, ayolga homiladorlik paytida shikast yetkazish;
 - 3. Crimes against animals, domestic animals, in particular, various types of dogs;
- 4. Mulkiy jinoyatlar: öğirlik, qaroqchilik, paymonshiqonlik, talon-toroj qilish, bosqinchilik;
 - 5. Moral crimes: prostitution, rape, adultery, adultery, adultery, adultery;
- 6. Crimes against nature: violation of the rules for preserving land, water, air, fire, nonobservance of the state of land, violation of the rules for environmental protection, public va shaxsiy gigiyenani buzmoq, boğ-roğ, rezavorga zarar yetkazmoq, suvni isrof qilmoq, betartib butazor yaratmoq, daraxt o'tkazmoq and so on.

Also, according to the Vendidad, "Those who eye social or private property and steal it, robbers and pathfinders are sentenced to death. Those who attempted to take someone's life were hanged on the gallows as traitors to the Motherland. Those sentenced to death were used in canal qazish, hovuz va quduqlar kovlashda toki hukm ijro etilgunga qadar.

If we consider the legislation of the ancient Turkic peoples who lived at the end of the 4th century BC and in the 4th century AD, N.Ya. Some excerpts on customary rights, family and marriage, and more on criminal law, relating to the ancient ancestors of the Turks, are cited in Bichurin's works. In particular, information about Motun Khagan indicates that the death penalty was imposed for drawing a sharp weapon from its sheath, firing a heavy iron weapon, and other serious crimes.

Although examples of the statehood of ancient Turkic peoples have not fully reached us, it is known that laws (in the form of regulations) and customary law were extremely developed, since the law was considered a symbol of order and discipline even at that time. Criminal legislation also provides for its strictness, collective responsibility for the crime, and liability for being in a dangerous situation. In the system of punishments, remnants of the primitive communal system were found at that time. For example, being driven into the desert (ostrakizm) was considered one of the severe punishments[10].

In the period from the fifth to the middle of the eighth centuries, information about the state structure and sources of law of the Hephtalites has not reached us. Byzantine historian **Procopius**

(VI century), "The Hephthalites were ruled by a king, they had a legitimate state, and between themselves and their armies were the Romans (Byzantians)." and forslardagi mavjud adolatdan zarracha kam bulmagan adolatga amal qilganlar" They governed the state based on laws. Chinese sources in "Beyshu" indicate that property crimes were severely punished in the Hephtalite state. There is information that for theft, without determining the amount of



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the stolen item, the criminal is executed by cutting his neck, and punishment is given with the recovery of ten times the stolen property[11].

At this point, it is necessary to pay attention to the history of the law of other states. Including:

In the states of ancient India, the army played a very large role. The large and main part of the spoils of war, in particular, the land, weapons, gold, and silver, passed to the king, and the remaining items were distributed among the warriors (Manu Laws, Chapter VII, Article 97).

The army is replenished with professional fighters, hired fighters, as well as fighters provided by separate associations, including trade guilds, dependent allies, and vassals. In times of peace, mainly kshatriyas carried weapons, others could only be armed when the time of disaster approached (Manu Kanunlari, Chapter VIII, Article 348) [12].

In ancient China, during the Zhangzhou period, there was a loan agreement, and in the 7th century BC, the territory of the country was divided into districts - navkari. Their population, regardless of which tribe they belonged to, had to build warships with their own funds, provide them with weapons and crews[13].

In the 6th century BC, when a very complex situation arose in Athens, citizens who received 200 medimn income from their land were forced to serve in a foot army and possess their own heavy weapons[14].

In the 2nd century BC, the army in the Roman state was highly disciplined and wellarmed. For example, jangda qurolini yo'qotib qo'ygan jangchini tribunlar kengashi hatto o'lim jazosiga hukm qilgan[15].

Crimes directly contrary to the interests of the Roman state also included embezzlement of treasury property and theft of state funds, bribery, forgery, making counterfeit money, participation in prohibited assemblies and associations, speculation with grain and other products, non-payment of taxes, and others. In connection with the growth of the standing army, the number of military crimes has also increased. Among them, betrayal in battle, flight, loss of weapons, disobedience to the commander, and so on were distinguished[16].

Thus, if we study the above sources, "as a result of the formation of the first city-states, rulers, in order to defend their territories from enemies or expand them, developed and began to use various weapons of war (spears, bows and arrows, gurzis, axes, crossbows) to destroy the enemy. As a result, the first laws regulating the use of weapons began to be introduced, and we can see that types of crimes and punishments for offenses in this area began to take shape.

Sources also mention the use of firearms by Arabs and Chinese in the 10th century CE[17].

In historical literature, most historians have stated that firearms were first officially used in Europe in the late 13th and early 14th centuries[18].

Moreover, when Amir Timur conquered the Izmir fortress near Ankara in 1402, the European salibchiks who resisted him used firearms (19). After Sohibqiron's victory, in our opinion, if these rifles fell into the hands of the Timurid warriors, it is possible that the firearms prepared by them were also used in subsequent battles. At the same time, the second assumption is that for the future use of these weapons





the fact that ammunition production was not possible or not established, which did not allow for the widespread dissemination of firearms, had a negative impact on the combat capability of his troops[20].

In this regard, it is impossible not to recall the life and work of Zahiriddin Muhammad Babur, his military skills and heroism, and his reforms in ensuring security, maintaining public order, peace, and tranquility.

The "Baburnama" mentions two individuals who specialized in artillery and firearms. One of them is Ustod Aliquli, a master who casts a cannon, and the other is Mustafa Rumiy, who is a specialist in the manufacture of "Rum dasturi bila aroba," a wheeled cart mounted on the bottom of a cannon in the European style. Under the leadership of these two specialists, a special group consisting of gunners and riflemen was formed in Babur's horde.

European 15th-16th centuries, artisans used the first revolver and began to create rifles. In that period, that is, in the twenties of the 16th century, arquebuses were widely used. These weapons were capable of piercing knights' armor from 35 meters. The defeat of the French King Francis I by the Spanish arguebuses in the Battle of Pavia in 1525 demonstrated the power of modern firearms. The troops, consisting of knights, were powerless against firearms. These firearms have become the main type of weapon for all European troops for many years.

The widespread use of firearms in Europe has led to the penetration of firearms into Russian territory. In 1399, the first memorandum of Russia on the use of firearms, as in Europe, was adopted, and the first information about firearms, called a squeaker, belonging to those times, is found[23].

The invention and widespread use of firearms in Europe Russia and its improvement dates back to the 13th-19th centuries.

The period of colonization by Tsarist Russia in the territory of Uzbekistan corresponds to the period from the 50s of the 19th century to the 20s of the 20th century. In the history of the state and law of Uzbekistan, the 60s of the 19th century can be called the beginning of a "new era." This is directly characterized by the conquest of the Turkestan Krai, including the territory of Uzbekistan, by Tsarist troops.

The formation of colonial and administrative bodies and the legal system in Turkestan was carried out gradually. The "Provisional Regulation on the Administration of the Turkestan Region," approved by the Russian Emperor on August 6, 1865, served as the legal basis for regulating relations formed in the process of governing the Turkestan region and implementing the colonial policy of the Tsarist government.

Also, the draft "Regulations on Administration in the Semirechye and Syrdarya Regions," developed in 1867, served as the legal basis. Although the draft regulation was not officially approved by the head of state, it remained in effect in the Turkestan Krai until 1886. The draft Regulation also reflects the issue of the implementation of judicial power in the Turkestan Krai. It was necessary to create separate judicial bodies for the nomadic and settled Russian population. That is, 1) District courts, judges who have reviewed disputes with a value of up to 2000 soums, are appointed by the District Governor, the control over their activities is assigned to the regional departments; 2) Military Judicial Commissions; 3) Viloyat sud boshqarmalari, harbiy xalq boshqaruvini amalga oshiruvchi mansabdor shaxslarning jinoiy ishlarini ko'rgan.

Approved by the Russian Emperor on June 12, 1886



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According to the "Regulations on the Management of the Provisional Region"[25], which remained in effect until mid-1917, crimes against the state and other types of political crimes, theft and looting of state property, and other similar crimes were considered by imperial courts.

The emergence of firearms in Russia will subsequently allow criminals to commit crimes using firearms. This necessitated the application of legal measures to combat the illegal circulation of firearms.

By the 17th century, in Russian legislation, the objects of theft were named separately, and weapons began to be distinguished from other objects, namely: "If someone steals someone's horse, weapon, or clothes and the property owner finds that something is missing in their house, they will reclaim their property within the framework of the law. and the person who stole another's property will pay a fine of 3 hryvnias." At the same time, according to Russian legislation at that time, all crimes were divided into two groups. That is:

- against the person;
- mulkka garshi jinoyatlardir.

In this case, the second group, namely the protection of weapons in property relations, began to be shown separately. In Russia, an independent norm on arms theft was introduced for the first time into the 1649 Sobor Code. In this case, in accordance with Part 7 establishes liability for theft of weapons by military personnel. This served as a guarantee of weapons security in the Russian army[26].

The norm on theft of weapons developed further during the period of the formation of absolutism (XVII - XVIII centuries). That is, the military reforms carried out by Peter I entrusted the army to the state service, and all the weapons in it were taken under special control[27]. Thus, in the laws of the 18th century, it is emphasized that weapons are not only an object of property, but also a means of ensuring the security of the state and society. Increased attention to public safety necessitated aggravating criminal liability for repeated weapons theft. Thus, the death penalty has been imposed for the third time in Russia for the theft of weapons. (Article 59) [28].

The last source of the pre-revolutionary period, which included the norm of arms theft in Russia, is the Criminal Code of 1903. This norm is characterized, first of all, by the expansion of the subject of the crime, which includes not only weapons, but also military materials[29].

In the 1922 Criminal Code of the RSFSR, there is a norm for storing only firearms without appropriate permission, and its liability is provided for in Article 220 of the Criminal Code of the RSFSR.

For the first time, the Criminal Code of the RSFSR of 1926 was supplemented with the article "Weapons

By the resolution of the Central Executive Committee and the Council of People's Commissars of the USSR "On Strengthening Criminal Liability for the Theft of Firearms" of February 1929, an independent norm on the theft of weapons was introduced. After the adoption of this resolution, Articles 9-3 (dangerous crimes against the order of management) of the Criminal Code of the Republic of Uzbekistan on crimes related to the theft of weapons have been introduced, which include norms on liability for the covert or open theft of firearms, their parts, and fire extinguishing materials.



In Russia, in the post-war years, the significance of criminal liability for appropriation has been reduced. This situation was noted in the Decree of the Presidium of the Supreme Soviet of the USSR dated 06.04.1947, according to which a special norm on theft of weapons was abolished and liability for these actions was introduced into other articles of the Criminal Code[30] [31].

From 1926, both criminal and administrative liability began to be applied for illegal possession of firearms[32].

Four articles of the Criminal Code of Uzbekistan adopted in 1926 (Articles 781, 104, 104¹, and Article 258 of the Criminal Code) establish criminal liability for illegal handling of weapons.

In the Criminal Code of Uzbekistan, adopted in 1926, this act was initially not recognized as a criminal offense. In connection with the sharp increase in socially dangerous acts, such as organizing attacks on persons carrying weapons in connection with their professional activities and illegal possession of weapons, the Central Executive Committee of the Soviets of the Uzbek SSR, by Resolution No. 31 of April 27, 1934, introduced Article 781 into this Code, which establishes liability for "theft or open possession of firearms, their parts and ammunition from specially protected and controlled areas." When these actions are committed in a life-threatening manner and lead to grave consequences, property is confiscated and the death penalty is imposed[33].

For the illegal seizure of firearms, ammunition, main parts of firearms, explosives, explosive devices or explosive devices, according to Article 166a of Chapter Seven of the Criminal Code of the RSFSR dated July 1, 1950, the concept of "hidden or open theft of firearms" existed.

The Criminal Code of the RSFSR, which entered into force on June 1, 1960, initially contained a norm for the illegal carrying, storage, purchase, production, or sale of weapons, military materials, or explosives, for which liability was provided for in Article 218 of the Criminal Code.

Subsequently, by the Decree of the Presidium of the Supreme Soviet of the RSFSR of June 1, 1967, in Article 218 of the Criminal Code of the RSFSR, it was established that "firearms,

Criminal liability has been introduced for theft of ammunition or explosives. At that time, due to the increase in the number of crimes related to the illegal arms trade in Russia, including serious and especially serious crimes committed with the use of weapons, ammunition, explosives, and explosives, as well as the rise of organized crime, it was necessary to amend the criminal legislation[34].

In the Criminal Code of the Russian Federation of 1997, which entered into force on January 1, 1996, the articles on crimes related to the illegal arms trade were significantly amended. Russian Federation's 1994 Taking into account the laws "On Weapons," adopted on January 1 and July 1, 1997, which entered into force, the scope of criminal law has significantly expanded on the concepts of objects and types of weapons classified as weapons. In particular, the illegal trade of all types of firearms and liability is provided for the illegal acquisition of not only combat weapons, but also smooth weapons, gas, cold and firearms, main parts and components of firearms.

Article 226 of the Criminal Code of the Russian Federation establishes stricter criminal liability for theft or extortion of weapons, ammunition, explosives, and explosive devices than



for encroachment on other property objects, since the object of this crime poses a threat not only to property relations, but also to public safety.

By the way, Article 2101 of the Criminal Code of 1960 establishes liability for the largescale looting of firearms, ammunition, or explosive substances. This procedure is not established in Article 247 of the current Criminal Code, which, in our opinion, indicates the need to amend parts two and three of Article 247 of the Criminal Code as aggravating circumstances for cases committed in "many" and "very many" amounts, as defined in the above article, respectively[36].

Historical and comparative legal analysis of normative legal acts regulating illegal trafficking in weapons, firstly, although it provides an opportunity to observe the emergence of the first buds of the legislation on criminal liability for the illegal trafficking of ammunition and explosives, later it can be seen that the legislator's attitude towards weapons changed in different periods of its existence, that is, if initially weapons were considered as a means of everyday life and an element determining the position of the individual in human life, now they have the status of a high-risk subject, which indicates that in various historical manifestations of the development of any society, they are legally assessed as socially dangerous acts[37].

In the fight against illegal (criminal) circulation of firearms, ammunition, explosive substances or explosive devices 1994

Article 247 of the Criminal Code, adopted on September 22, establishes a criminal-legal prohibition on the illegal possession of these items and establishes criminal liability[38].

Deepening of democratic reforms in our republic and modernization of society, a number of amendments and additions have been made to Article 247 of the current Criminal Code. In particular, in accordance with the Law of the Republic of Uzbekistan dated December 27, 1996 No. 357-1

In accordance with the Law of August 29, No. 254-II, in connection with the liberalization of punishments, the punishment in the form of "confiscation of property" was excluded from the sanction provided for in Article 247 of the current Criminal Code[39].

By the Law of the Republic of Uzbekistan dated August 10, 2015 No. ЗРУ-389, in addition to the sanction of part 1 of Article 247 of the Criminal Code, a type of punishment "restriction of liberty from two to five years" will be applied [40].

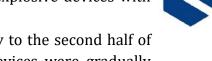
In accordance with the Law of the Republic of Uzbekistan dated May 31, 2022, No. ZRU-772 "On Amendments and Additions to Certain Legislative Acts of the Republic of Uzbekistan in Connection with the Improvement of Legislation on Weapons," the following amendment shall be made to Article 247 of the Criminal Code: and additions were made:

Including: Article 247 of the Criminal Code and the disposition of the first part establish criminal liability for the illegal possession of firearms, ammunition, explosives, or explosive devices, including "main parts of firearms" and "explosive devices" [41].

Conclusions on the scientific article

Based on the conducted historical and legal analysis, it is advisable to characterize the development of norms establishing criminal liability for the illegal possession of firearms, ammunition, main parts of firearms, explosives, explosive devices or explosive devices with the following stages:

first (formation) stage - (from the beginning of the 19th century to the second half of the 19th century) firearms, ammunition, explosives and explosive devices were gradually



introduced into circulation in the territory of the national statehood, and the issues of legal regulation of their circulation were resolved in the Bukhara Emirate, Khiva and Kokand Khanates on the basis of Islamic law and local customs;

second stage - (from the second half of the 19th century to the 20th century) Until the 1920s) were regulated by the scattered legal documents of Tsarist Russia and the rules of local Sharia; third stage - (from 1926 to 1994) former RSFSR

The Criminal Codes of Uzbekistan, adopted in 1926 and 1959, regulate the illegal circulation of weapons. During these periods, from year to year, criminal liability for these crimes was separated, and the applied punitive measures were strengthened; fourth stage -(from 1994 to 2017) during this period, changes in the socio-political situation in the country, as a result of reforms based on the principles of democratization of society, the norms establishing responsibility for illegal possession of firearms, ammunition, main parts of firearms, explosives, explosive devices or explosive devices were significantly streamlined, and the types of punishments imposed were somewhat liberalized, in particular, the punishment of confiscation of property was abolished, and the imposition of restriction of freedom as an alternative punishment to imprisonment was established; fifth stage - (New Uzbekistan, i.e., from 2017 to the present) In connection with the adoption of the Law "On Weapons," the scattered legal procedure for the circulation of weapons has been brought into a unified system. As a result, the disposition of the first part of Article 247 of the Criminal Code was adopted in a new edition, in which, in accordance with Article 247 of the Criminal Code, additional liability for the illegal possession of "main parts of firearms" and "explosive devices" as the subject of the crime was established.

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