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## CONTENTS

### 12.00.02 – CONSTITUTIONAL LAW. ADMINISTRATIVE LAW. FINANCE AND CUSTOMS LAW

#### **NARIMANOV BEKZOD ABDUVALIEVICH**

Organizational and legal forms of non-governmental non-profit organizations: constitutional and legal analysis .....	4
--	---

### 12.00.03 – CIVIL LAW. BUSINESS LAW. FAMILY LAW. INTERNATIONAL PRIVATE LAW

#### **MAMANAZAROV SARDOR SHUKHRATOVICH**

Biotechnology subjects: multi-level legal classification .....	13
--	----

### 12.00.06 – THE LAW OF NATURAL RESOURCES. AGRARIAN LAW. ENVIRONMENTAL LAW

#### **ABDUSAMADOVA ZARINA SHOBIDDIN KIZI**

The history of the formation of land servitude in the Central Asian region .....	31
--	----

### 12.00.08 – CRIMINAL LAW. CRIMINAL-EXECUTIVE LAW

#### **NODIROV MUZAFFAR AKHMADOVICH, TURSUNMURODOV KOMRON TURGUN UGLI**

The mandatory video recording of interrogations in Uzbekistan: perspectives and advantages .....	38
--	----

### 12.00.09 – CRIMINAL PROCEEDINGS. FORENSICS, INVESTIGATIVE LAW AND FORENSIC EXPERTISE

#### **IBADOVA ANJELIKA ISMATULLOYEVNA**

Current practice of using specialized knowledge in the investigation of crimes involving causing bodily harm .....	54
--	----

#### **SADRIDDINOVA LATOFAT HUSNIDDIN KIZI**

The importance of clarifying the functions of the prosecutor in the appellate court .....	59
---	----

### 12.00.12 – CORRUPTION PROBLEMS

#### **AHMADJONOV MURODULLO NURALI UGLI**

Combating corruption in Uzbekistan: legal reforms, institutional progress, and remaining challenges .....	70
---	----

#### **MIRZAEVA MOHINA SROJIDDINOVA**

Conflict of interests and direct contracting practices in road transport infrastructure development: a legal analysis and policy recommendations .....	76
--	----

### 12.00.14 – CRIME PREVENTION. ENSURING PUBLIC SAFETY. PROBATION ACTIVITY

#### **KHUJAMBERDIYEV FARRUKH KOMILOVICH**

The British neighbourhood policing model: adaptation potential in Uzbekistan .....	85
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## THE MANDATORY VIDEO RECORDING OF INTERROGATIONS IN UZBEKISTAN: PERSPECTIVES AND ADVANTAGES

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**Abstract.** This paper describes the issue of video recording interrogations, providing a thorough analysis of the experiences of several foreign countries, including Japan, the US, Canada, and Poland, as well as the opinions of scholars in this field. The paper describes two main categories of advantages the video recording of interrogations offers, both of which contain detailed analysis of several factors that contribute to the establishment of mandatory video recording of interrogations in Uzbekistan. The first category includes benefits in ensuring human rights during interrogations, and the second category focuses on the compliance of interrogations with the norms and provisions of criminal procedural legislation. Although there may be potential disadvantages to the video recording of interrogations, the authors have put a strong emphasis on the advantages this innovation offers and provided specific examples for each advantage. The authors have also suggested adding new provisions and amending the existing ones regarding the mandatory recording of interrogations in the Criminal Procedure Code of Uzbekistan in line with the analysis of foreign countries' experiences in this field.

**Keywords:** mandatory video recording, interrogation, videotapes, compliance of interrogation, human rights, procedural legislation

### Introduction

Interrogation is one of the most important investigative actions. This is evidenced by the following factors. Firstly,

through the conduct of an interrogation, initial evidence is obtained. At the same time, it creates prerequisites for subsequent investigative actions: confrontations,

identification procedures, and inspections of statements at the scene [1, p. 211]. Secondly, the interrogation is the only investigative action that is covered by three whole chapters of the Criminal Procedure Code of the Republic of Uzbekistan (hereinafter – CPC). Specifically, the interrogation as an institution of criminal procedural law is enshrined in Chapters 10, 11, and 12 of the CPC. Thirdly, in the hierarchical presentation of investigative actions, the interrogation comes first in the CPC. For example, Article 87 of the CPC establishes the methods of gathering evidence and also lists the investigative actions through which evidence is collected. In this list, the interrogation of the suspect, accused, defendant, witness, victim, and expert is mentioned first.

Despite the importance of the interrogation, it is not included in the category of investigative actions that require mandatory video recording. It should be noted that, according to Article 91 of the CPC, the following investigative actions are subject to mandatory video recording:

- 1) examination of the scene of particularly serious crimes;
- 2) verification of statements at the place of the event;
- 3) investigative experiment.

At the same time, it is important to remember that the interrogation can be recorded on video according to Article 106 of the CPC. However, this article establishes a dispositive norm, empowering investigators with the right to apply or not to apply video recording during the interrogation. Consequently, under the current legislation, no provision requires mandatory video recording of this investigative action. Therefore, interrogations are often recorded in protocols, and video recording occurs very rarely, which does not fully ensure the guarantee of upholding the rights, freedoms, and legitimate interests of citizens, as well as compliance with the

norms and provisions of criminal procedural legislation.

Notably, many foreign scholars have already addressed this issue. N.K. Korovin argues in favor of the mandatory video recording of interrogations as a means to counter potential claims by the interrogated person regarding the investigators' methods [2], while A.V. Khlopov highlights its advantages in ensuring the accuracy of translation during interrogations [4]. Furthermore, T.P. Sullivan and A.W. Wail emphasize that video recording helps guarantee the professionalism of interrogators [5]. Similarly, P.G. Kassel [6] and R.A. Leo [7] underscore the importance of enhancing the credibility of evidence obtained through video-recorded interrogations.

The primary aim of this article is to critically examine the necessity and legal significance of mandatory video recording of interrogations in the Republic of Uzbekistan. Specifically, the study seeks the following:

*First*, to demonstrate the role of video recording in safeguarding human rights and freedoms, with particular emphasis on the prohibition of torture, the right to defense, and the right to accurate translation during interrogations.

*Second*, to assess the contribution of video recording to ensuring compliance with the Criminal Procedure Code, including the lawful participation of defenders and translators, adherence to procedural time limits, prohibition of unauthorized persons, and prevention of unlawful investigative practices.

*Finally*, to provide a scholarly and practical justification for legislative and procedural reform that would institutionalize video recording as a mandatory safeguard in criminal proceedings.

### **Materials and methods**

This paper employs a doctrinal legal research methodology, grounded in the systematic interpretation of the Constitution of the Republic of Uzbekistan,

the Criminal Procedure Code (CPC), and relevant presidential decrees. Particular attention is devoted to the provisions of several articles of CPC, which collectively regulate the conduct of interrogations, the participation of defenders and translators, the procedural rights of suspects and accused persons, the admissibility of evidence, and the conditions under which investigative actions may lawfully be carried out.

The analysis is further informed by constitutional guarantees and by the Decree of the President of the Republic of Uzbekistan "on additional measures to enhance the guarantees of rights and freedoms of citizens in judicial-investigative activities" of 30 November 2017, which prohibits psychological pressure and inhumane treatment during investigative activities. To ensure an international dimension, the research also incorporates Article 14 of the International Covenant on Civil and Political Rights (ICCPR, 1966), thereby situating domestic practice within the framework of internationally recognized fair trial standards.

Methodologically, the study combines doctrinal interpretation with a comparative analytical approach, drawing on the works of distinguished scholars such as N.K. Korovin, A.V. Kholopov, G.D. Lassiter, S.A. Drizin, B.A. Kolgan, D. Dixon, and I.A. Nasonova. Their contributions provide a broader intellectual context for assessing the practical value of mandatory video recording of interrogations as both a procedural safeguard and a guarantee of legality.

In addition, the research applies a case-based illustrative method, referring to instances of defective translation, inadequate explanation of procedural rights, unauthorized presence of third parties during interrogations, violations of statutory time limits, and interrogations conducted under conditions of intoxication. These illustrations serve to highlight the deficiencies of current practice and to

demonstrate the preventive and corrective potential of video recording.

Finally, a systematic analytical framework is adopted to link the protection of core procedural rights such as the right to defense, the right to translation, the presumption of innocence, and protection from inhumane treatment with the overarching principle of legality. Through this framework, the study substantiates the claim that mandatory video recording of interrogations not only enhances the protection of individual rights but also strengthens the integrity and effectiveness of criminal proceedings.

### **Research results**

Notably, the issues of mandatory video recording of interrogations have become the subject of heated discussions. Some scholars have proposed establishing norms in criminal procedural legislation for the mandatory recording of interrogations on video, while others have opposed such an innovation. This article focuses only on the advantages of the mandatory video recording.

In our opinion, mandatory video recording of interrogations offers a number of advantages. These include the following:

- 1. Advantages in ensuring human rights during the conduct of interrogations;*
- 2. Advantages in compliance with the norms and provisions of criminal procedural legislation.*

Often, suspects and defendants file complaints regarding the illegality of the interrogation process. For example, during court proceedings, a defendant claims that they were subjected to torture and violence to obtain their confession. Alternatively, a defendant who participated in an interrogation with the help of a translator may assert that they did not actually confess to their guilt; it was the translator who misrepresented their words to the investigator.

One cannot disagree with N.K. Korovin's opinion who emphasizes that video

recording allows for the refutation of potential claims made by the interrogated individual about illegal interrogation methods, the abnormal conditions of the interrogation, and so on [2, p. 44–46]. Illegal interrogation methods should include torture, overfatigue, and the introduction of substances into the body, deception or hypnosis of the person being interrogated, as well as physical coercion against them [3].

A.V. Kholopov notes that video recording the interrogation will allow refuting the claims of the interrogated individual regarding the accuracy of the translation [4, p. 73–77]. In this case, based on the video recording, a specialist can verify the correctness of the translation of the conversation between the investigator and the interrogated individual.

T.P. Sullivan and A.W. Vail rightly emphasize that video recording of

the interrogation provides compelling documentation that the interrogation was conducted professionally and without coercion [5, p. 215].

According to P.G. Kassel, video recordings will allow for a better assessment of the credibility of the evidence obtained, on one hand to dismiss false claims of abuse of power by investigators and interrogators; on the other hand, to examine potential wrongful accusations [6]. R.A. Leo holds a similar position [7].

O.S. Kerr highlights that video recording of the interrogation contributes to the goal of documenting evidence, while also assisting law enforcement agencies in gathering evidence, and will ensure the proper conviction of individuals who have committed crimes [8].

The following table elaborates on the advantages of each category.

**Main advantages of mandatory video recording of interrogations**

№	Category I	Category II
	Advantages in ensuring human rights	Advantages in enforcing compliance with the norms and provisions of criminal procedural legislation
1.	Prevention of the use of torture, violence, and other inhumane, cruel, and degrading treatments that undermine human dignity	Establishment of the fact that the suspect or accused was informed of their right to refuse to testify against themselves or their close relatives, and other rights
2.	Guaranteeing the right to legal defense	Establishment of the fact of ensuring the participation of a defense attorney
3.	Guaranteeing the right to an interpreter	Establishment of the fact of ensuring the participation of an interpreter
4.	–	Establishment of the fact that the interrogation was conducted by an investigator or interrogator
5.	–	Establishment of the time when the interrogation took place
6.	–	Establishment of the presence of signs of alcohol or other types of intoxication during the interrogation of the person being questioned

**Experience of Japan.** Japan is a country known for its culture and the commitment of its citizens to comply with the law. In this country, the introduction of

video recording during interrogations began to gain momentum after scandals in 2010, when it was revealed that prosecutors were fabricating evidence in a number of criminal

cases. As a result, the Ministry of Justice established a commission to investigate the activities of the prosecution, and it was decided to create a special subcommittee within the Judicial System Committee, tasked not only with reforming the criminal justice system but also with the need to implement video recording of interrogations to prevent the falsification of documents (protocols) related to interrogations, thereby improving the criminal justice system and ensuring the protection of all rights of individuals involved in criminal proceedings.

In 2014, the Japanese Ministry of Justice submitted a bill to parliament based on the subcommittee's report. This bill was passed by parliament and made public on June 3, 2016.

The changes affected the criminal procedural legislation, specifically codifying the obligation of individuals conducting criminal proceedings to record interrogations on video, which ensures full protection for witnesses, victims, suspects, and defendants.

It should be noted that, according to Articles 319 and 322 of the Japanese Criminal Procedure Code, a coerced confession cannot be used as evidence in court; a written statement from the defendant containing a confession of guilt and their signature cannot be used as evidence if there are doubts about its voluntariness [9].

According to the aforementioned articles of the Japanese Criminal Procedure Code, and considering the reforms in the area of criminal justice, Japanese lawmakers expressed their opinion:

*“Video recording of an interrogation during which a written confession was made by the suspect may be the best evidence of the voluntariness of the statement.”* [10, p. 181]

This opinion from Japanese lawmakers indicates that the state is seriously committed to reforms in the criminal process and ensuring proper protection for participants in interrogations. We believe

that in this case, the introduction of video recording practices during interrogations will serve as a basis for maintaining the legality of procedural actions by law enforcement agencies, while also serving as evidence in cases of violations by suspects, defendants, witnesses, or victims during interrogations.

However, criticism of the new initiative should also be taken into account. In particular, Nonna Yuryevna's work points out that the legislative provisions regarding the possibility of using video recordings only for suspects who are subject to such preventive measures as arrest have come under strong criticism, as investigators are not required to record interrogations for suspects subjected to other types of preventive measures [10, p. 185].

In our opinion, this criticism is quite justified, given the potential loophole in the legislation that may allow individuals administering justice to exert certain influence on the suspect, defendant, witness, and victim.

This could serve as a starting point for a repeat of the “same mistakes” as in the 2010 scandal, since if lawmakers do not fully eliminate all possible loopholes that emerged after the reforms, there will be a high likelihood of repeating negative incidents in the lives of the people and a resurgence of criticism towards the government. Currently, Japan has established mandatory video recording of interrogations during the investigation of serious crimes [11].

**Experience of the United States of America.** Attention should be drawn to the experience of the USA regarding the practice of using video recording during interrogations. In the work of Glushkov M.R. “The Use of Video Recording in Police Investigations in the USA,” an example is provided indicating that the Milwaukee Police Department Code (Wisconsin) dedicates a number of rules to video recording [12, p. 427]. Interrogations of detainees are almost always recorded

on video, with exceptions to this rule occurring only in rare cases. "Spontaneous" statements, meaning those made not in response to law enforcement questions, as well as information about identifying data provided by the suspect, are not recorded. Additionally, video recording is not required if the interrogation takes place in a location other than the police station (such as a hospital or correctional facility), in case of equipment malfunction, or in emergency situations (paragraph B of section 750.15). Nonetheless, even with these exceptions, audio recording of the interrogation must be ensured (paragraph C).

In this case, considering the above-described points by Glushkov M.R., one can conclude that there are similarities with Japanese legislation. In particular, the question of the use of video recording during interrogations and the exceptions when recording may not be conducted, while audio recording is mandatory, is quite interesting. We believe that the Milwaukee Police Department Code provides for equipment malfunctions but simultaneously obligates officers to conduct audio recording, likely to avoid the emergence of "loopholes" that could be exploited for unlawful purposes. In the same work, Glushkov M.R. mentions that video recording of interrogations aims to enhance the effectiveness of investigations

and prevent complaints regarding violations of the detainee's right to defense and the right against self-incrimination. It is crucial to note that the Code takes into account potential violations by officials in the absence of video recordings, thereby underscoring the high significance of adhering to fundamental human rights – "to defend oneself and not testify against oneself."

It is worth noting that in 2021-2022, two bills were passed in the state of Pennsylvania. The first legislation concerned mandatory video recording of interrogations conducted by law enforcement agencies for all crimes. The second bill addressed compulsory video recording of interrogations for certain crimes.

Moreover, states have their own legislation. This means that while in some states recording interrogations on video is mandatory, in others, the procedure is voluntary. Additionally, mandatory video recording of interrogations occurs in certain states for all types of crimes, while in others, it applies only to specific types of crimes.

The table below lists the states where video recording of interrogations is mandatory for all types of crimes, as well as the states where it is required only for sexual offenses and homicide charges [13].

**Table 2**

**States where video recording of interrogations is mandatory for the investigation of all types of crimes and certain types of crimes**

No	States where mandatory video recording of interrogations is conducted for the investigation of <i>all types of crimes</i>	States where mandatory video recording of interrogations is conducted for the investigation of <i>crimes against sexual freedom, intentional murder, and other serious crimes</i>
1.	Alaska	California
2.	Arkansas	Illinois
3.	Colorado	Kansas
4.	Minnesota	Ohio
5.	Washington, D.C.	Oklahoma

As seen from the practice in the USA, video recording can serve as an independent means of documenting the investigation. In addition, appropriate protocols and notes are provided for documentation, which ensures a more detailed examination of the progress of the investigation, as it is important to record the proceedings on multiple information carriers for further comparison of evidence. This, in turn, will allow for the identification of discrepancies (should any exist) and the implementation of appropriate measures.

**Experience of Other Countries.** In Canada, video recording of interrogations is mandatory when law enforcement presents evidence of a confession [14, p. 170]. In Estonia, Hungary, Poland, Finland, and Germany, this practice is employed when interrogating minors [15]. A similar practice can be observed in Norway, where the interrogation of minors is also subject to mandatory video recording [16].

#### **Analysis of the research results**

Further, we will provide a detailed analysis of the two benefits the mandatory video recording of interrogations offers.

#### **I. Advantages in ensuring human rights and freedoms**

The conduct of interrogations must be accompanied by adherence to human rights, as the Constitution of the Republic of Uzbekistan directly establishes the immediacy and inviolability of human rights and freedoms. Specifically, Article 20 of the Constitution states: "The rights and freedoms of individuals enshrined in the Constitution and laws are inviolable, and no one has the right to deprive or restrict them without a court decision. The rights and freedoms of individuals operate directly. The rights and freedoms of individuals determine the essence and content of laws, the activities of state bodies, local self-government bodies, and their officials." Furthermore, the CPC enshrines the principle of protecting the rights and freedoms of citizens, according to which all state bodies and officials responsible

for criminal proceedings must protect the rights and freedoms of citizens involved in the criminal process (Article 18 of the CPC). This means that during the interrogations, investigators and interrogators must ensure the rights and freedoms of the person being questioned. In our view, the advantages of mandatory video recording of interrogations in ensuring human rights and freedoms are as follows:

#### ***Prevention of torture, violence, or other cruel, inhumane, or degrading treatment***

Video recording of interrogations will help identify instances of torture, violence, and other forms of cruel or degrading treatment. It should be emphasized that such practices are strictly prohibited in Uzbekistan. For example, Article 26 of the Constitution contains provisions that protect everyone's right not to be subjected to torture, violence, or any other cruel, inhumane, or degrading treatment or punishment. A similar provision is reflected in Article 17 of the CPC, which states that no one may be subjected to torture, violence, or any other cruel or degrading treatment.

It is worth noting that the Convention against Torture and Other Cruel, Inhumane, or Degrading Treatment or Punishment defines the term "torture." According to Article 1 of this Convention, torture is understood as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person to obtain information or a confession from them or a third person, to punish them for an act they or a third person have committed or are suspected of having committed, or to intimidate or coerce them or a third person for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

There have been increased instances where investigators, interrogators, or prosecutors have employed torture

against those being interrogated to obtain necessary testimony or confessions. When an interrogation is recorded in a protocol, it becomes difficult to ascertain whether torture has been applied to the person being questioned. For example, an investigator may threaten or intimidate a suspect or accused by saying, "Your relatives will also face criminal charges. They will all be imprisoned if you do not admit your guilt." Another example involves an investigator coercing a witness to testify against a close relative.

It should be noted that scholars in the field of procedure law also support our position. In particular, A.I. Ivanyshina states that torture serves as a means of compelling the accused to give confessions [17]. O.S. Shepelev views torture as a factor violating the right to a fair trial [18].

One of the most important steps towards establishing video recording of interrogations is the Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin [19]. Specifically, in paragraph 37 of his report, he emphasizes the following: "The prohibition of torture or any other forms of cruel, inhumane, or degrading treatment or punishment is absolute, permitting no exceptions, and pertains to the treatment of any person within the jurisdiction or effective control of the state, even when that person is outside the state's territory. Under no circumstances can such treatment be justified, and states must take measures to effectively prevent, detect, and, if detected, prosecute individuals responsible for all cases of such treatment. These measures should include, but not be limited to, the continuous video recording of all interrogation rooms using technical means that cannot be turned off or deleted. Information obtained through torture or other cruel, inhumane, or degrading treatment or punishment, wherever it occurs, may not be used in judicial proceedings under any circumstances."

We are convinced that Special Rapporteur Martin Scheinin rightly highlighted the introduction of continuous video recording in all interrogation rooms using technical means that cannot be turned off or deleted. If the video recording of interrogations is implemented effectively, such that it cannot be disabled or deleted, ensuring the comprehensive adherence to principles and established legal regulations during interrogations will demonstrate the highest priority given by the state to protect the rights of individuals involved in the interrogation. Moreover, having a procedure (in the form of video recording) that guarantees protection for individuals against potential unlawful actions by any party is of utmost importance, as it would relieve any party of the burden of proof in the event of such actions, since there is a video record of the interrogation process.

To prevent the use of torture and other cruel forms of treatment against those being interrogated, it is essential to record the interrogation on video. Video recording of the interrogation will provide the opportunity to observe the psychophysiological and emotional state of the person being questioned, signs of beatings, and other factors that can help ascertain instances of torture, violence, or other cruel treatment against the individual being interrogated.

**Protection of the right to defense.** Article 24 of the CPC guarantees the right to defense for suspects and defendants. This right stems from the Constitution as well as from international treaties to which Uzbekistan is a party. For example, according to Article 28 of the Constitution, the accused is provided with all opportunities for their defense. The Universal Declaration of Human Rights of 1948 also guarantees the right to defense for the accused (Article 11). Similar provisions are contained in Article 14 of the International Covenant on Civil and Political Rights of 1966. Therefore,

the right to defense involves providing the accused or suspect with an actual opportunity to use means and methods for their protection. This right is often exercised with the participation of a defender, i.e., a lawyer authorized to defend the rights of the accused and the suspect and to provide them with legal assistance.

Under the current legislation, during the first interrogation of a suspect or accused, after establishing the identity of the person being interrogated, the language in which they may give their testimony and clarification of their rights and obligations, the investigator or interrogator must ensure the participation of a defender in the interrogation. Unfortunately, the defender's participation is primarily confirmed by their signing of the interrogation protocol. That is, after reviewing the content of the protocol, the defender signs it. In other words, the defender may not actually participate in the interrogation and signs the protocol after the investigator has conducted the questioning. At the same time, it is difficult for an ordinary citizen to notice such procedural errors due to a lack of knowledge in jurisprudence.

In our opinion, video recording of interrogations would resolve this issue. For example, the video recording will clearly show the presence of the defender during the interrogation. Additionally, it will allow for determining the extent to which the defender provided legal assistance to the suspect or accused. There are cases where a defender may be present during the interrogation and remain indifferent to the fate of their client. Such cases include situations where the defender does not react to violations of criminal procedural law committed by the investigator. Clear examples of such violations include cases where the investigator asks leading questions, exerts influence, applies torture, violence, or other forms of ill-treatment, uses illegal interrogation methods, and many others. There are also situations where the defender may not notice

violations of the CPC by the investigator due to incompetence.

The preparation of the lawyer for the interrogation and the preparation of the client by the lawyer are of great importance, as qualified legal assistance and the effectiveness of the defense will entirely depend on the lawyer's actions. Consequently, all these actions will reflect on the testimonies provided by the client, which are permitted as evidence and may influence the course of the entire criminal case.

Importantly, Article 53 of the CPC defines the duties of the defender, which include using all available means and methods to determine circumstances that refute suspicion or accusation or mitigate responsibility, as well as providing the necessary legal assistance to the suspect or accused. This means that the defender must take all measures to improve the situation for their client. According to I.A. Nasonova, during the interrogation, the lawyer should ensure compliance with the norms of procedural law and closely monitor the implementation of the requirements of the CPC [20]. This position is also supported by D.S. Yastreb, N.V. Anyukhovskaya [21, p. 459-463], E.V. Millerov [22, p. 156], and others. In turn, V.N. Ponomareva found that in 74% of cases (out of 50 criminal cases), the questions posed by the investigator were not recorded in the interrogation protocol, even though they should have been included in this document [23]. She notes that at the concluding stage of the interrogation, the defender should make a statement regarding which specific violations of the CPC were committed by the investigator.

From our point of view, video recording of interrogations can also resolve this issue. It will allow for an evaluation of the performance of both the defender and the investigator simultaneously. Thus, the mandatory recording of the interrogation on video will ensure the right of the suspect and accused to a full and quality defense.

***Ensuring the right to a translator.***

Article 20 of the CPC establishes one of the most important principles of criminal procedural legislation – the language in which the criminal proceedings are conducted. In Uzbekistan, the language of criminal proceedings is Uzbek, Karakalpak, or the language spoken by the majority of the local population. According to this principle, if a participant in the proceedings, in this case, the accused or suspect, does not speak or has insufficient knowledge of the language in which the proceedings are conducted, they have the right to exercise all their procedural rights in their native language or another language they know. Moreover, the exercise of these rights is directly accompanied by the right to assistance from a translator.

Based on the provisions of Article 71 of the CPC, it follows that when interrogating a person who does not speak the language in which the interrogation is conducted, a translator must be called. Since the interrogation is often conducted in a verbal-textual form, the translation of the conversation between the investigator and the interrogated person is essential. Not only incorrect but also inadequately qualified translations can serve as grounds for a violation of human rights, i.e., of the suspect or accused, as well as grounds for the collected evidence to be deemed inadmissible.

According to Article 72 of the CPC, the translator certifies the accuracy of the translation with their signature in the interrogation protocol. However, this does not exclude cases where the translator may fail to thoroughly translate the explanations provided by the investigator regarding all the rights and obligations of the suspect or accused, overlook critical points concerning the essence of the interrogation, and negatively influence its outcome, etc. For example, during the interrogation, the investigator clarified that the accused intended to reconcile with the victim and explained all the conditions listed in Article

66<sup>1</sup> of the Criminal Code of the Republic of Uzbekistan. At the same time, the translator overlooked one crucial condition – the admission of guilt. As a result, the accused was not released from criminal liability, despite having compensated for the harm caused and reconciled with the victim. In such cases, it becomes difficult for the accused to prove the inadequacy of the translation. However, video recording serves as an effective means to refute the incorrect translation of their rights explained in court.

Another argument in favor of video recording of the interrogation lies in involving a translator for persons with physical disabilities, such as the deaf and dumb. It is well known that translation for the deaf is conducted using sign language. In our view, determining the accuracy and sufficiency of the translation in such cases is only possible through video recording of the interrogation. This position is supported by A.V. Kholopov, who notes that the participation of a translator and the translation performed during the interrogation of a deaf person can only be recorded through video [4, p. 75].

In summary, we can conclude that the mandatory video recording of the interrogation will prevent the use of torture, violence, or other inhumane, cruel, and degrading treatment towards the interrogated person. It will ensure the right of the suspect or accused to defense, the right to have a defender and receive competent legal assistance, as well as guarantee the right of the interrogated person, who does not speak the language of the proceedings, to use the services of a translator and to receive an accurate and complete translation.

**II. Advantages in compliance with the norms and provisions of criminal procedural legislation**

The principle of legality in criminal procedural legislation involves the duty of judges, prosecutors, investigators, defenders, and all persons involved in

criminal proceedings to accurately adhere to and fulfill the requirements of the Constitution, the Criminal Procedure Code, and other legislative acts of Uzbekistan (Article 11 of the CPC).

The mandatory video recording of interrogations, in addition to ensuring human rights, also guarantees compliance with the norms and provisions of the Criminal Procedure Code by investigators and interrogators. In other words, video recording of the interrogation will, in one way or another, compel the investigator and interrogator to strictly conform to the norms and provisions of the Criminal Procedure Code. As correctly noted by N.K. Korovin, the presence of a video recording in the case allows for verifying compliance with procedural norms [2, p. 44-46]. This position is supported by other scholars such as G.D. Lassiter [24], S.A. Drizin, B.A. Kolgan [25], and D. Dixon [26].

In our opinion, mandatory video recording of interrogations contributes to revealing the following points and violations of the Criminal Procedure Code:

***1. Whether the rights of the suspect or accused to refuse to testify against themselves or their close relatives and other rights have been explained.***

This right stems from the provisions of the fundamental principle of criminal proceedings – the presumption of innocence. In particular, due to this principle, a suspect or accused is not obliged to prove their innocence, thereby exercising the right to remain silent at any time, which is also provided for by Article 14 of the UN International Covenant on Civil and Political Rights dated December 16, 1966. The basis for introducing this principle is the goal of preventing law enforcement agencies from obtaining evidence against the will of the suspect or accused through violence, threats, torture, and other inhumane methods of coercion against persons under criminal prosecution.

According to Article 100 of the CPC, all rights and duties must be explained to the

person being interrogated. A note about the explanation of these rights and duties is made in the interrogation protocol. The suspect or accused must be informed of their right to refuse to testify or not to testify against themselves or their close relatives. As correctly noted by the judge of the Tashkent City Court in criminal cases, “the right of a person not to testify against themselves and their close relatives serves as a limiting instrument against the use of torture, threats, and coercive measures of any kind.” [27]

The accused must be informed of their rights and duties as provided in Article 46 of the CPC. These rights include the right to know the charges against them; to have a defender; to testify regarding the charges presented or any other circumstances of the case, or to refuse to testify and be informed that their testimony may be used as evidence in a criminal case against them; to use their native language and the services of a translator; to personally exercise their right to defense; to file motions and challenges; to present evidence, among others.

Duties should include the obligation to: appear when summoned by the interrogator, investigator, prosecutor, and judge; not evade participation in the investigation, preliminary inquiry, and court hearings; not obstruct the establishment of the truth by destroying or falsifying evidence, colluding with witnesses, or engaging in other unlawful actions; to maintain order during the investigation of the case, among others.

The suspect is informed of the rights and duties provided for in Article 48 of the CPC. These rights include the right to: know the basis of the suspicion against them; have a defender; testify regarding the suspicion directed against them and any other circumstances of the case, or refuse to testify and be informed that their testimony may be used as evidence in the criminal case against them; use their native language and the services of a translator;

personally exercise their right to defense; file motions and challenges; present evidence, among others.

It is worth noting that the investigator or interrogator explains these rights and duties by reading them aloud or presenting a specific document that details the rights and duties of the person being interrogated for their review and signing. In the latter case, the individual being interrogated can read the text of their rights and duties but may not fully understand their essence and content. In our view, explaining rights and duties should not simply be a matter of reading them, but rather a literal explanation of each right and each duty. For example, when explaining the accused's right to have a defender, it is necessary to clarify that the defender may be invited by the accused themselves or provided by the investigator. It should also be clarified that if the accused invites their own defender, the costs are covered by the accused, whereas if the investigator ensures the defender's participation, the expenses are covered by the state budget.

In our opinion, to fully ensure compliance with the requirements outlined in Article 100 of the CPC, it would be advisable to record the interrogation via video.

## ***2. Participation of a defender in the interrogation***

The participation of a defender during the interrogation is one of the key means of procedural protection in criminal proceedings, as the defender, while involved in investigative actions, assists in ensuring compliance with the requirements of procedural legislation and in protecting the lawful rights and interests of the suspect or accused, which are guaranteed both by the Criminal Procedure Code and the Constitution. In particular, Article 29 of the Constitution states that everyone has the right to benefit from the assistance of a lawyer of their choice at any stage of the criminal process, and in the case of

detention, from the moment their freedom of movement is actually restricted.

During the first interrogation of a suspect or accused, the investigator or interrogator is obliged to ensure the participation of a defender with whom the suspect or accused has made an agreement, or another defender if the suspect or accused has not had the opportunity or ability to make such an agreement.

Additionally, Article 51 of the CPC requires mandatory participation of a defender in cases involving:

- minors, mute, deaf, blind, and others who, due to physical disabilities or mental disorders, experience difficulties exercising their right to defense;
- individuals who do not speak the language in which the proceedings are being conducted; individuals suspected or accused of crimes for which life imprisonment may be imposed;
- individuals whose interests conflict, if at least one of them has a defender;
- cases involving a state or public prosecutor;
- cases in which a lawyer participates as a representative of the victim;
- cases concerning the application of compulsory medical measures;
- cases in which the court conducts a preliminary hearing;
- individuals suspected or accused of committing particularly serious crimes;
- considerations regarding the application of preventive measures such as detention or house arrest, as well as extensions of detention or house arrest; regarding cases where an agreement on pleading guilty has been made;
- cases being reviewed in appellate, cassational, and supervisory instances.

Furthermore, it is crucial to note that under Article 49 of the CPC, the defender must be allowed to participate in the case at any stage of the criminal process, and in cases of detention, from the moment the detained person's freedom of movement is actually restricted.

The above article allows for the observance of all guarantees of rights and lawful interests of individuals under investigation, enshrined at the constitutional level, as well as in criminal procedural legislation. As noted by I.A. Nasonova, "Competent participation of a defender during the interrogation of a suspect or accused will ensure the law is adhered to during this investigative action, protect the rights and interests of these participants in the process, and help reveal circumstances that justify the accused or suspect, mitigate their liability, or lead to their release from it." [20]

Video recording of the interrogation will ensure the effective participation of the defender, which is usually confirmed by their signing of the interrogation protocol, thereby contributing to compliance with the provisions of Articles 51 and 111 of the CPC, as well as providing a number of advantages mentioned earlier.

### **3. Participation of a translator in the interrogation**

According to paragraph "f" of Article 14 of the International Covenant on Civil and Political Rights, everyone has the right to free assistance of a translator in any criminal proceedings against them if they do not understand the language used in court or do not speak that language.

Naturally, the investigator's or interrogator's knowledge of the language in which the interrogated person may testify does not exempt them from the obligation to engage a translator during the interrogation. Therefore, in every case where the interrogated person does not possess proficiency in the language of the interrogation, a translator must be provided for them. Likewise, the video recording of the interrogation will ensure compliance with the requirements stipulated in Articles 20 and 71 of the CPC, which will create an additional advantage with the participation of a translator as a guarantee of procedural compliance for the person under investigation, since the translator has the

right to lodge complaints about the actions of the interrogator and the investigator, thereby promoting the legality of actions on the part of law enforcement authorities.

Furthermore, video recording will help identify any procedural violations that may have occurred, per Article 99 of the CPC, which states: "If questions arise regarding whether the interrogated person understands the language in which the proceedings are being conducted and what language they can testify in, these issues must be clarified. In cases provided for in Article 71 (translator) of this code, a translator is called, and the interrogation is postponed until their arrival."

This means it is crucial to know whether the interrogation was conducted, and if there was any pressure on the person under investigation during the absence of a translator, since the interrogation must necessarily be postponed until the translator arrives, which will ensure the observance of all lawful rights and interests of the interrogated person.

### **4. Presence of the investigator or interrogator during the interrogation**

The right to conduct an interrogation is granted to the investigator, interrogator, and prosecutor. However, there are instances when the interrogation is conducted by individuals lacking such authority, such as operatives, criminalists, and others. It should also be noted that individuals being interrogated often cannot distinguish the investigator from other law enforcement officers. If there is a video recording in the interrogation room, such situations may work to the advantage of the person under investigation, as Article 95<sup>1</sup> of the CPC states:

*"Factual data is deemed inadmissible as evidence if obtained by illegal methods or by depriving or limiting the legally guaranteed rights of participants in the criminal process, or in violation of the requirements of the Criminal Procedure Code, including data obtained as a result of procedural actions in a criminal case"*

*by a person not authorized to conduct proceedings in that criminal case.”*

The presence of other individuals who may exert pressure on the interrogated person remains an important issue. For instance, the presence of operatives, criminalists, witnesses, victims, and others is not allowed, as there is a possibility of pressure being applied on the interrogated individual by such persons.

At the same time, it is essential to emphasize the Presidential Decree of the Republic of Uzbekistan on additional measures to enhance the guarantees of rights and freedoms of citizens in judicial-investigative activities dated November 30, 2017. According to this decree, psychological pressure and other cruel, inhumane, or degrading treatment of participants in the criminal process or their close relatives is strictly prohibited. The use of any data obtained illegally, particularly audio and video materials and physical evidence, is categorically forbidden within criminal cases.

The aforementioned decree further underscores the importance of adhering to all guarantees of rights, freedoms, and legal interests of citizens established by the Constitution and other regulatory legal acts, prohibiting any form of pressure on individuals participating in the interrogation.

Moreover, video recording will help establish the presence of such pressure and will contribute to the observance of all necessary procedures, ensuring the protection of the rights, freedoms, and interests of citizens.

##### **5. When the interrogation is conducted**

According to Article 107 of the CPC, the total duration of an interrogation within a day should not exceed eight hours, excluding a one-hour break for rest and meals. Usually, the recording of the time is also reflected in the interrogation protocol. However, it is rarely possible to verify the correct application of this norm due to the time being recorded by the investigator. With video recording, the duration of the

interrogation will also be visible, which helps ensure compliance with the norms and provisions of Article 107 of the CPC by the investigator.

Additionally, according to Article 88 of the CPC, conducting investigative actions at night, that is, from 10:00 PM to 6:00 AM, is prohibited, except in cases where it is necessary to prevent a prepared or ongoing crime, to avert the possible loss of traces of the crime, or to prevent the escape of the suspect, or to recreate the circumstances of the researched event during an experiment. By securing the interrogation with video recording, it is also possible to determine the time at which the interrogation was conducted, thus providing a guarantee in case of discrepancies with the interrogation protocol regarding the time of the end of the video recording.

##### **6. Presence of signs of alcohol or other types of intoxication during the interrogation**

Interrogating a person in a state of alcohol or other types of intoxication is unacceptable. In such a state, the suspect or accused may provide false testimony and may not fully comprehend or control their actions. Although the Criminal Procedure Code does not directly regulate this circumstance, Article 142 lists the grounds for examination. Such investigative action is necessary to determine the state of alcohol intoxication of the suspect or accused. Consequently, the interrogation of a person in a state of alcohol or other types of intoxication is prohibited. Through video recording of the interrogation, it is also possible to assess what state the interrogated person was in, whether they were under the influence of alcohol or another type of intoxication.

In summary of the aforementioned advantages, it can be stated that video recording of the interrogation will ensure compliance with criminal procedural legislation as a whole, thereby creating conditions for a fair administration of justice and effective resolution of the criminal case.

## Conclusion

The analysis undertaken in this study confirms that the mandatory video recording of interrogations constitutes a fundamental safeguard within the system of criminal justice in Uzbekistan. By providing an objective and verifiable account of investigative actions, video recording not only strengthens the protection of human rights and freedoms such as the prohibition of torture, the right to legal defense, and the right to accurate translation but also compels strict compliance with the procedural norms enshrined in the Criminal Procedure Code.

From a doctrinal perspective, video recording ensures adherence to the constitutional principles of legality, fairness, and equality before the law. From a practical standpoint, it prevents unlawful practices such as unauthorized participation of operatives, interrogations beyond lawful time limits, and questioning of individuals under conditions that

compromise their capacity to provide valid testimony. Importantly, it also resolves evidentiary disputes by providing an impartial record that can be scrutinized by courts, defenders, and supervisory bodies.

The convergence of domestic constitutional guarantees with international human rights obligations further underscores the necessity of institutionalizing continuous and tamper-proof video recording of interrogations. Such a reform would not only enhance public trust in law enforcement and the judiciary but also align Uzbekistan's criminal procedure with international standards of fair trial.

In sum, mandatory video recording should be recognized not as a mere technical measure but as a cornerstone of procedural justice, indispensable for ensuring the integrity, transparency, and legitimacy of criminal proceedings in Uzbekistan.

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