

Ethical Issues in Interrogating Individuals Involved in Criminal Proceedings During Preliminary Investigation

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Abstract. in this scientific article the criminal procedure legislation of our country provides for several moral circumstances, in particular: a) gesture (part 1 of Article 102 of the Criminal Procedure Code); b) refusal of the interrogated person to answer (part 3 of Article 106 of the Criminal Procedure Code). This is the maximum concreteness in our legislation. We can only assume an ethical description of the purpose (task) of a specific issue used in the interrogation. Based on the foregoing, it should be noted that the interrogation provides for the normative legal regulation of issues.

Key words: investigation, judge, criminal procedure code, silence, age issues.

Consequently, the investigator, inquiry officer, and judge, based on the principle of respect for the honor and dignity of the persons involved in the case, must treat them with politeness and a tactical approach, observing the culture of their behavior. Questions must comply with the norms of morality. In any case, even if a person is an especially cruel criminal, disrespectful or other actions contrary to the law towards them are unacceptable, because if the investigator humiliates the honor and dignity of the accused, then the investigator himself is no different from the criminal. Therefore, the official conducting the criminal case must, on the one hand, not damage the name of the state, and on the other hand, comply with the guarantees of the person enshrined in law.

Thus, in order to fill the gaps in the legislation regarding morality, it is advisable to supplement part 1 of Article 102 of the Criminal Procedure Code with the following content:

"Any questions asked by the investigator, inquiry officer, and court during the interrogation of the interrogated person must meet the requirements of ethical norms. Questions must be clear, understandable, concise, and not contain the opinions and assessments of the investigator, inquiry officer, or court. During the interrogation, it is required to conduct it in compliance with the provisions of Article 17 of this Code. Any deviation from the precise execution and observance of laws, regardless of the reasons for which it occurred, is considered a violation of legality in criminal proceedings and entails established liability."

It should be noted that the ethical principles of questioning witnesses, victims, and accused persons are regulated by similar procedural rules. However, although the interrogation procedure is very similar, each has its own peculiarities. This peculiarity is related to the procedural status of the victim and the witness. Specific characteristics include not giving testimony against oneself and relatives, maintaining silence, age-related issues, circumstances requiring the participation of a defense attorney, and not warning the accused not to give false testimony.

A.Yo. Abdullayev, analyzing the topic of false testimony, noted that to bring a witness or victim to criminal responsibility for giving false testimony, they must give deliberately false testimony. Unintentional giving of false testimony does not entail criminal liability. However, these exact limits

are not clearly indicated in the criminal legislation. Looking at practice, there are different views on which program to evaluate as false or deliberately given false¹.

Immunities in criminal procedure legislation are a guarantee of socially useful activity and contribute to the implementation of certain tasks².

According to O. Lipmann, lies are issues belonging to the category of morality and ethics. W. Stern defines lying as a deliberate false statement that serves to achieve certain goals by deliberately deceiving others³.

In accordance with Article 117 of the Criminal Procedure Code,⁴ the victim, witness involved in the criminal case, in accordance with Article 238 of the Criminal Code,⁵ Warning of criminal liability for refusal to testify and deliberate giving false testimony, with subsequent entry in the interrogation record. However, the investigator or judge, taking into account the specifics of the witness and victim under sixteen years of age, is not warned about criminal liability for refusal to testify and deliberate giving false testimony, but explains that giving testimony in establishing the truth is a moral duty (Article 121 of the Criminal Procedure Code).

A. Pulatov noted that the legislator's establishment of such a special procedural status for a minor is not accidental, since a minor is a person with limited social activity due to their unpreparedness for independent social relations. From this point of view, in investigative and judicial proceedings related to minors, one of the parents and a teacher or psychologist are involved as a representative of the minor⁶.

Consequently, due to the physical, mental, and intellectual underdevelopment of the minor, the legislator does not warn the minor about criminal liability during interrogation. Indeed, a minor may not be able to distinguish well from reality and correctly understand that lying is unacceptable. Usually, the main reason a minor lies is their fear of punishment or objection. Or it can be fear of parental violence or scolding, or fear of losing parental love. Or, for example, a minor experiences fear-induced stress as soon as they see or hear about an investigative or court building, and therefore, they have a desire to give false testimony to leave this building as soon as possible. Sometimes, minors give incorrect testimony due to misunderstanding the situation, inability to distinguish real information from each other, and embarrassment.

The difference between minors and adults in giving testimony is that adults may intentionally attempt to give false or untrue testimony.

Giving false testimony in court or preliminary investigation is associated with concealing the truth, therefore it directly leads to socially dangerous consequences. According to scientists A.S. Solovykhov and V.S. Trapezarov, investigative actions involving minors should be conducted in conditions that do not create an atmosphere of psychological tension in the victim, witness⁷.

In everyday life, people often use lies, and this problem is considered morally important. Our country has a long history, and in our preserved customs and traditions, lying is considered a spiritual sin. Perhaps this is due to the fact that spiritual values are being forgotten. As a result of the loss of these qualities, today people consider lying to be heroism. The necessity of speaking the truth is also

¹ Абдуллаев А.Ә. Ёлғон гувохлик бериш: назарий ва амалий таҳлил. *Евразийский журнал права, финансов и прикладных наук*, 4(11), 67 бет.

² Малько А.В., Суменков СЮ. Правовой иммунитет: теоретические и практические аспекты // Журнал российского права. 2002. №2.

³ Штерн В. Изучение свидетельских показаний / Проблемы психологии. Ложь и свидетельские показания. - Вып. 1. - Пг.: Ред. изд. Н.Н. Колчев, 1922.

⁴ Ўзбекистон Республикасининг Жиноят-процессуал кодекси. – Т.: Ўзбекистон, 2023.

⁵ Ўзбекистон Республикасининг Жиноят кодекси. – Т.: Ўзбекистон, 2023.

⁶ Пўлатов А.С. Жиноят процессида гувохнинг процессуал мақоми ва уни тақомиллаштириш масалалари. Автореф.дисс...юридик. фан. фалсафа. докт (PhD). Т., ТДОУ, 2022. - Б. 103.

⁷ Соловыхова, А. С. Психологические особенности расследования преступлений, совершенных несовершеннолетними / А. С. Соловыхова, В. С. Трапезарова // Научный журнал «Эпомен». — № 48. — 2020. — С. 248.

mentioned in the verses of our holy book, the Holy Quran. For example, in verse 4 of Surah "An-Nur" of the Holy Quran, it states: "Those who disgrace pure women (adulterers) and then fail to produce four witnesses, beat them eighty times and never accept their testimony! They are sinful and disobedient"⁸. Additionally, the Holy Quran provides for the obligations of witnesses. In particular, verse 283 of Surah Al-Baqarah states, "Do not conceal your testimony! And whoever conceals it, his heart is sinful. Allah knows what you do"⁹.

In a mentally healthy, normally developed person, deception, as a rule, is determined by real motives and is aimed at achieving specific goals¹⁰. Performing the testimony itself is a great moral responsibility. Through it, many judgments are made. Depending on the witness's testimony, someone may be acquitted or convicted, someone may acquire or lose property, others may have established or denied their nisab, and many rights may be violated or protected¹¹.

According to Y.A. Bozorov, of course, in the course of criminal proceedings, the truth not only can exist, but must also be established in every criminal case. True, in the course of criminal proceedings, the problem of truth and lies always attracts the attention of the subject responsible for the crime, since lies prevent the establishment of the true circumstances of the case. Therefore, the persons participating in the criminal case are summoned to avoid giving false testimony¹².

K. Melitan considers lying a sign of immorality. Often, in a society, people hide real facts, which inevitably leads to its deception. A person lies for their own benefit by following simple rules of politeness. A person plays a role in front of himself, and later he can play this role in front of others¹³.

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⁸ Қуръони Карим. Таржима ва изоҳлар муаллифи. Алоуддин Мансур. - Т.: Чўлпон, 1992. Нур сураси. 4-оят. 250 бет.

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¹⁰ Знаков В.В. Неправда, ложь и обман как проблемы психологии понимания // Вопросы психологии. - 1993. - № 2. - С. 9-16.

¹¹ <https://islom.uz/maqola/1141>

¹² Бозоров Ё.А. Жиноят процессуал қонунчилиги бўйича далилларни баҳолашда ички ишонч масалалари. Автореф.дисс...юридик. фан. фалсафа. докт (PhD). Т., Ўзбекистон Республикаси Ҳуқуқни муҳофаза килиш академияси, 2025. - Б. 19.

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