



# The History Of Judicial And Prosecutorial Institutions In The Republic Of Uzbekistan

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**ABSTRACT**

The judicial and prosecutorial systems of Uzbekistan have evolved through distinct historical phases: pre-Soviet traditional justice rooted in Islamic shariah and customary law, the centralized Soviet socialist model (1924–1991), early post-independence continuity with limited reforms (1991–2016), and radical modernization since 2017 under President Shavkat Mirziyoyev. This article traces these developments, highlighting the shift from executive-dominated structures to a more independent judiciary aligned with democratic principles, rule of law, and international standards. It examines key legislative milestones, institutional changes, and ongoing challenges, drawing on constitutional, historical, and legal sources.

**Keywords:**

Uzbekistan, judicial history, prosecutorial system, qadi, Soviet courts, Constitutional Court, Supreme Court, Prosecutor General, judicial reform, rule of law

**INTRODUCTION**

**1.1 Background and Significance**

Uzbekistan's judicial and prosecutorial institutions constitute one of the oldest continuously evolved legal systems in Asia. The territories of modern Uzbekistan — historically known as Mawarannahr and Transoxiana — were the site of sophisticated legal activity millennia before the emergence of the modern state. From the Achaemenid satrap courts of the sixth century BCE through the celebrated Hanafi jurisprudence of medieval Bukhara and Samarkand, Central Asian legal culture produced institutional forms of lasting global significance. Al-Imam al-Bukhari, Abu Mansur al-Maturidi, al-Kaffal al-Shashi, and Ibn Sina all worked within, or contributed to, the legal-intellectual environment of what is now Uzbekistan.

The radical institutional ruptures imposed by Russian colonial conquest (1865–1917) and Soviet power (1917–1991) interrupted, but did

not erase, this heritage. Independence in 1991 created an opportunity — not automatically realised — to rebuild judicial and prosecutorial institutions on principles consistent with international rule-of-law standards. The post-2016 reform cycle under President Shavkat Mirziyoyev has generated the most substantial institutional changes since independence, including the creation of the Supreme Judicial Council, the establishment of Administrative Courts, and a significant narrowing of the prokuratura's supervisory powers. Whether these changes amount to structural transformation or formal renovation is the central empirical question this article addresses.

**1.2 Research Gap**

Existing scholarship on Uzbek legal institutions falls into three categories that together leave a significant analytical gap. Historical studies of Central Asian law (Frye 1965; McChesney 1991; Morrison 2008) provide rich pre-Soviet

coverage but do not extend to the contemporary reform period. Post-independence legal analyses (Huskey 1992; Abdullaev 2020) focus on the 1991–2016 period without systematic historical grounding. Comparative post-Soviet judicial reform literature (Venice Commission 2021; World Bank 2022) provides structural benchmarking without deep historical contextualisation. This article bridges these three bodies of literature by treating the full historical arc as the necessary context for evaluating contemporary institutional performance.

### 1.3 Research Objectives

The study pursues three objectives: (1) to document the principal institutional transformations of Uzbekistan's judicial and prosecutorial system across five historical periods; (2) to identify the structural mechanisms — path dependence, institutional layering, and political economy — that explain continuities between periods; and (3) to evaluate the depth and likely durability of the post-2016 reform programme against the benchmark of the identified structural mechanisms.

## 2. MATERIALS AND METHODS

### 2.1 Research Design

The study employs a qualitative historical-comparative design. Historical comparison is appropriate when the object of inquiry is institutional evolution over long time periods and the researcher seeks to identify causal mechanisms rather than statistical associations (Mahoney & Rueschemeyer 2003). The unit of analysis is the institutional type — the court and the prosecutor's office — and the unit of comparison is the historical period within a single national trajectory. This within-case longitudinal comparison allows causal mechanisms to be identified that cross-sectional comparison would obscure.

### 2.2 Data Sources

Primary sources include: (i) constitutional and legislative texts of Uzbekistan (1992 Constitution and amendments; Laws on Courts 1993, 2000, 2021; Laws on the Prokuratura 1992, 2001, 2022; Criminal Procedure Code editions 1959, 2001, 2021); (ii) official statistical data on court caseloads and

conviction rates published by the Supreme Court of Uzbekistan (2010–2023); (iii) archival documents of the Uzbek SSR judicial organs held at the National Archive of Uzbekistan; and (iv) Venice Commission opinions on Uzbek legislation (CDL-AD(2021)038; CDL-AD(2022)015). Secondary sources include peer-reviewed monographs and journal articles identified through systematic database searches of JSTOR, HeinOnline, and the Central Asian Law Review using the terms 'Uzbekistan judiciary', 'Central Asia prokuratura', and 'Soviet legal legacy'.

### 2.3 Analytical Framework

The primary analytical framework is institutional path dependence (North 1990; Pierson 2000), which holds that early institutional choices create self-reinforcing feedback mechanisms that constrain subsequent options. This framework is applied to explain why Soviet-era structural features persist in the formal design and informal practice of Uzbekistan's courts and prokuratura despite repeated formal reform. A secondary framework of institutional layering (Thelen 2003) — the process by which new institutional elements are added to, rather than replacing, existing structures — is applied to explain the hybrid character of the current system. These frameworks together generate the analytical categories used to structure the Results section.

### 2.4 Limitations

The study is limited by the restricted availability of pre-Soviet archival material in systematic accessible form, the absence of systematic quantitative data on judicial outcomes before 1991, and the recency of several key post-2016 reforms — whose practical impact is not yet fully legible in available empirical data. These limitations are acknowledged throughout the Results section.

## 3. RESULTS

### 3.1 Pre-Islamic and Islamic Institutional Foundations (c. 500 BCE – 1865 CE)

Documentary and archaeological evidence establishes that formalised adjudication in the Uzbek territories predates Islamic conquest by at least a millennium. The Achaemenid satrap system delegated judicial authority to provincial governors, with royal appellate jurisdiction

available at the centre. Zoroastrian legal codes — particularly the Madayan i Hazar Dadestan ('Book of a Thousand Judgements', c. seventh century CE) — evidence a sophisticated three-tier adjudication structure combining priestly interpretation, royal decree, and communal arbitration. Sogdian merchant correspondence from the Silk Road, dated to the fourth century CE, demonstrates the existence of commercial arbitration and contractual enforcement mechanisms operating independently of formal state authority.

Following the Arab conquest of Transoxiana (674–712 CE), the qadi court became the central institution of formal adjudication. Within a generation, the Hanafi school of Islamic jurisprudence — one of the four canonical Sunni schools, distinguished by its openness to local custom — became hegemonic across the region and has remained so to the present day. The

Samanid state (875–999 CE) institutionalised the position of qadi al-qudat (chief judge) as a senior state office, established the muhtasib as a regulatory and minor criminal jurisdiction, and developed the mazalim extraordinary tribunal — a forerunner of the modern administrative court — for complaints against official misconduct. The Timurid period (1370–1506 CE) introduced explicit legal pluralism through a dual Sharia/yasa jurisdictional framework, with dedicated waqf courts for endowment disputes and professional legal representatives (wakils) operating within a documented appeals hierarchy. The Shaybanid dynasty (1500–1598) introduced state appointment of qadis, establishing the structural precedent of executive influence over judicial selection that would be replicated, in different forms, in every subsequent political order.

Period	State	Key Institution	Structural Significance
Pre-Islamic	Achaemenid / Sogdian	Satrap court; communal arbitration.	Formalised adjudication; appeals to centre.
Early Islamic	Arab Caliphate	Qadi (Hanafi); mazalim.	Sharia introduction; extraordinary review.
Samanid–Timurid	Central Asian dynasties	Qadi al-qudat; waqf courts.	Dual jurisdiction; professional legal reps.
Khanate period	Bukhara / Khiva / Kokand	State-appointed qadis; biy courts.	Executive judicial appointment; legal pluralism.

Table 1. Principal judicial institutions in the Uzbek territories, pre-Islamic era to 1865 CE

### 3.2 Russian Imperial and Soviet Periods (1865–1991): Imposed Subordination

Russian conquest, formalised in the 1867 Statute on the Administration of the Turkestan Region, introduced a deliberate policy of parallel jurisdiction: qadi courts were preserved for Muslim personal status and family law matters as a calculated administrative economy, while criminal law, commercial disputes involving Russians, and inter-ethnic cases were assigned to new Russian-model courts based on the 1864 Alexander II judicial reforms. The Russian prokuratura of this period — modelled on the Petrine institution reformed in 1864 — was constitutionally subordinate to the courts,

operating as a forensically focused prosecution and pre-trial oversight body without the sweeping supervisory powers of its Soviet successor. All senior positions were staffed exclusively by ethnic Russians, making the institution structurally inaccessible to the majority population.

The Bolshevik seizure of power in 1917 and the formal establishment of the Uzbek Soviet Socialist Republic in 1924 produced the most drastic institutional rupture in the region's legal history. The qadi courts were formally abolished (Decree on Courts No.1, 1917), though informal operation persisted until the 1930s. Their replacement — the Soviet

'people's court' (narodnyi sud) — was nominally independent but structurally subordinate to Communist Party direction through the mechanism of 'telephone justice' (telefonnoe pravo): informal directives from party officials to judges on case outcomes. Empirical data confirm this subordination: Soviet-era conviction rates in Uzbekistan consistently exceeded 99 percent — a figure inexplicable by reference to investigative quality and reflecting instead the total integration of judicial adjudication into the party-state apparatus.

The Soviet prokuratura underwent a qualitative transformation from its imperial predecessor. The 1922 Statute on Prokuratura Supervision, and its subsequent restatements, vested the

institution with five distinct functions: (1) criminal prosecution; (2) supervisory review of judicial decisions, including acquittals; (3) oversight of the legality of all administrative acts; (4) supervision of places of detention; and (5) direction of pre-trial criminal investigations. This concentration of prosecutorial, supervisory, and investigative functions in a single institution, accountable in practice to the party rather than to the courts, produced the most prosecution-dominant legal architecture in the world. The late Soviet 'Uzbek Affair' (Uzbekskoe delo) of the 1980s — in which senior Uzbek procurators were implicated in the falsification of cotton production statistics and systematic embezzlement — illustrated the institutional consequences of this concentration when oversight accountability collapsed.

Indicator	Imperial Period (1865–1917)	Soviet Period (1924–1991)
Judicial independence	Formal; Russian courts modelled on 1864 reforms.	None; party-directed 'telephone justice'.
Prosecution model	Court-subordinate; forensic focus.	Five-function supremacy; supervisory over courts.
Conviction rate	Data incomplete; adversarial model.	Consistently >99%; no meaningful acquittal.
Local access	Dual court system; qadi courts preserved.	Uniform Soviet model; indigenous law abolished.
Legal language	Russian (state courts); Arabic/Uzbek (qadi).	Russian dominant; Uzbek permitted from 1989.

Table 2. Comparative institutional features: Imperial versus Soviet periods in Uzbekistan

### 3.3 Post-Independence Period (1991–Present): Constitutional Aspiration and Structural Inertia

Uzbekistan's Constitution of 8 December 1992 established judicial independence as a constitutional principle (Chapter XXII, Articles 106–116), prohibited extraordinary courts, guaranteed judicial tenure, and created the Constitutional Court as a new institution without Soviet precedent. The Law on Courts (1993) and the Law on the Prokuratura (1992) operationalised these provisions within a retained Soviet court architecture: the four-tier general court hierarchy (Supreme Court → oblast courts → inter-district courts → district

courts) and the parallel economic courts system were preserved from the Soviet model, as was the prokuratura's structural position as a quasi-supervisory body with authority over pre-trial proceedings.

Empirical tracking of key performance indicators across the post-independence period reveals a significant and persistent gap between formal provision and practical reality. The acquittal rate in criminal proceedings — the single most reliable proxy for effective judicial independence from prosecutorial authority — remained between 0.3 and 0.6 percent throughout the 1993–2015 period, compared to approximately 10–20 percent in established European rule-of-law systems and 5–8 percent

in comparator post-Soviet reforming states such as Georgia and Moldova. The 2008 reform transferring detention sanction authority from the prokuratura to the courts — a structurally significant formal measure — did not materially affect detention rates, suggesting that judicial willingness to exercise the new authority was constrained by institutional culture and informal political pressure.

The post-2016 reform cycle introduced changes of greater structural depth than any previous post-independence reform. The Supreme Judicial Council (Oliy Sudyalik Kengashi, 2017) created an independent body for judicial appointment and discipline, formally separating

these functions from presidential and executive control. The Administrative Courts (2021) established, for the first time in Uzbekistan's independent history, a dedicated institutional mechanism for state-versus-citizen adjudication — institutionalising the principle of state legal accountability. The 2022 amendments to the Law on the Prokuratura reduced general supervisory jurisdiction over administrative acts, transferring oversight functions to specialised regulatory inspectorates. The revised Criminal Procedure Code (2021) strengthened the presumption of innocence, enhanced pre-trial defence access, and introduced greater adversarial balance.

Year	Reform Measure	Institution Affected	Assessment
1992	Constitution; judicial independence declared.	Entire judiciary.	Framework established; Soviet structure retained.
2001	Revised Criminal Procedure Code.	Criminal courts; prokuratura.	Partial adversarial elements; limited impact.
2008	Detention sanction transferred to courts.	Courts / Prokuratura balance.	Formal step; no measurable effect on rates.
2017	Supreme Judicial Council created.	Judicial appointment system.	Most significant structural reform to date.
2021	Administrative Courts established.	State-citizen disputes.	New institutional type; no Soviet precedent.
2022	Prokuratura supervision narrowed.	Prosecutor General's Office.	Structural departure from Soviet model.

Table 3. Key judicial and prosecutorial reform milestones, independent Uzbekistan 1992–2022

#### 4. DISCUSSION

##### 4.1 Path Dependence: Why Soviet Structures Persist

The results confirm the analytical utility of the path-dependence framework. Three mechanisms of Soviet institutional persistence are identifiable. First, professional socialisation: the generation of judges, procurators, and criminal investigators who trained and formed their professional identities under the Soviet

system — and whose formative experiences created expectations of prosecutorial dominance, judicial deference, and confession-centred investigation — remained in post throughout the 1990s and 2000s. Institutional culture proved more durable than formal legal change. Second, organisational interests: the prokuratura as an institution had strong structural incentives to resist the narrowing of its supervisory jurisdiction. Each formal

reduction in prokuratura authority was contested and slowed by institutional resistance. Third, political economy: the party-court relationship of the Soviet era was partially replicated in the presidential-court relationship of the Karimov period, in which judicial appointment and tenure were de facto presidential instruments of political management. Formal judicial independence provisions created no constraint on this arrangement because the enforcement mechanism — an independent appointments body with genuine authority — was absent until 2017.

#### **4.2 Institutional Layering: The Hybrid Character of the Current System**

The current Uzbek legal system is not a Soviet system with reform cosmetics, nor is it a fully transformed rule-of-law system. It is a genuinely hybrid structure in which new institutional elements (the Supreme Judicial Council, the Administrative Courts, the revised criminal procedure framework) have been layered onto, rather than replacing, residual Soviet-era structures (the prokuratura's four-function architecture, the Soviet court tier hierarchy, the professional culture of near-automatic conviction). This hybrid character is visible in the divergence between reform ambition and measurable outcome: acquittal rates have begun to rise (reaching approximately 1.2 percent by 2022, compared to 0.4 percent in 2015 — a significant proportional increase but still far below comparative benchmarks), and the Administrative Courts heard 27,000 cases in their first operating year (2021), of which 34 percent resulted in judgements against government respondents — a finding that would have been structurally impossible under the Soviet model.

#### **4.3 Comparative Assessment and Reform Durability**

Comparative assessment of Uzbekistan's reform trajectory against analogous post-Soviet reform programmes (Georgia 2004–2012; Kazakhstan 2015–present; Moldova 2012–present) yields two consistent findings. First, formal institutional changes — new appointments bodies, revised procedural codes, structural

separation of prosecutorial functions — are necessary but not sufficient conditions for effective judicial independence. They must be accompanied by changes in political culture: in the willingness of executive actors to accept adverse judicial decisions and refrain from informal interference. Second, reform durability is enhanced when changes generate their own constituencies — professional associations, civil society actors, academic communities — with stakes in the new institutional order. The Venice Commission's 2021 and 2022 opinions on Uzbek legislation both note the positive institutional direction of recent reforms while identifying the deficit of civil society consultation and the limited transparency of prosecutorial decision-making as continuing risks to durability.

#### **5. Conclusion**

This study has traced the institutional history of Uzbekistan's judicial and prosecutorial system across five distinct periods, identified the path-dependence and institutional layering mechanisms that explain contemporary institutional characteristics, and evaluated the post-2016 reform cycle against these structural realities. Three principal conclusions emerge. First, Uzbekistan possesses one of the deepest and most sophisticated indigenous legal traditions in Asia: the Hanafi jurisprudence developed in medieval Bukhara and Samarkand constitutes a cultural resource — a heritage of procedural thought and legal reasoning — that is directly relevant to contemporary judicial reform. Second, the Soviet institutional legacy is not a simple inheritance to be discarded but a structural architecture embedded in professional culture, organisational incentives, and political economy; addressing it requires targeted engagement with these deeper mechanisms, not only formal legal change. Third, the post-2016 reforms represent a genuine structural departure — particularly the Supreme Judicial Council, the Administrative Courts, and the narrowing of prokuratura supervision — whose consolidation depends on the deepening of rule-of-law political culture and the development of sustainable professional and civil society constituencies for judicial independence.

Future research should empirically track acquittal rate trends, Administrative Court outcomes against government respondents, and the actual exercise of Supreme Judicial Council independence in contested appointment cases. Longitudinal data on these indicators will provide the most reliable evidence base for assessing whether Uzbekistan's current reform cycle achieves structural transformation or remains, in Thelen's terms, primarily institutional layering.

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