

Eurasian Journal  
of Humanities and  
Social Sciences



# Genesis Of The Development Of Contractual Legal Relations Of Medical Services

**Abdullaev Jamshid  
Djamilovich**

Doctor of Philosophy (PhD) in  
Law, "Excellence in Justice"  
E-mail: [jamshidb003fb@gmail.com](mailto:jamshidb003fb@gmail.com)

**ABSTRACT**

The article analyzes issues related to the genesis of the development of medical service contractual legal relations. Also, the issues of the Tsarist period of Tsarist Russia, the prosperity of Medicine in Turkestan were analyzed on the basis of educational archival sources and First-Class sources.

**Keywords:**

Codex Hammurapi, Soxmet, Valeriu Lucian Bologna, Roman Emperor Frederick II, medical work of 15 volumes by Menase Dosan, archival sources, I.Foundation No. 1, I.Foundation No. 19, Yu.Girs, "hand Pay", "service pay".

A person felt the need to ensure good health at all times. Thanks to this, the issue of genesis of the emergence and development of contractual legal relations in the field of Medicine arose as a natural human need.

As the essence of the issue, an in-depth study of the genesis of the development of medical care should be carried out. This in turn covers the types of services provided in the field of Medicine at all stages of development, as well as changes related to the development of technology for medicine of the same period, medical methods and Means and other factors. Medical service Genesis is directly related to the history of Medicine. In almost all periods, these two areas developed harmoniously with each other. In this sense, we make the most of this harmony and highlight the issue of genesis of the emergence and development of contractual legal relations in the field of Medicine.

Since the emergence of the first state associations on the territory of Egypt, Mesopotamia, India, China and Central Asia, which are important for their civilization in the history of the ancient world, Medical Services began to form as a separate sphere. Below we will analyze the issues related to the practice of medical care in an evolutionary sequence based on the sources considered most important for the genesis of World medicine.

Even in ancient Mesopathamia, there are sources that record the existence of a question of social relations regarding the provision of medical services, responsibility for poor-quality indicated medical services. In particular, " the Louvre Museum in France holds a stone pillar inscribed with the code of Hammurabi, the ruler of Babylon in the 18th century BC. This code includes laws relating to medical practice, and penalties for failure were severe. For example, "if a doctor kills a patient

in medical practice, his hands are cut off"; if the patient was a slave, the doctor was simply obliged to provide another slave"<sup>1</sup>.

These laws indicate that special attention was paid to the issue of patient life and health even during the medical treatment period in the centuries BC, when Hammurabi's laws were adopted. Furthermore because the main GoI of the same period are based on polytheism, "Sokhmet (Egypt. Mighty) - patron of healers, goddess of war, venerated in the form of a lion like a woman with a lion's head"<sup>2</sup>.

Hence, the social relations associated with the provision of medical services are considered much more ancient. Social relations regarding the provision of medical services for the entire territory developed based on local conditions, the necessary needs of the population. The most significant aspect is expressed in the ancient Babylonian Kingdom by the sanction –coercive measure, which is important for its time, the issue of legal responsibility for the practice of Medicine carried out by the doctor himself. The purpose of this is of course to approach the medical representative based on the factor of strengthening the responsibility of the patient (client)during and after medical treatment.

"The concept of Health and illness has evolved over thousands of years. Most of the great civilizations - Egypt, Assyria, Babylon, Hebrew, Africa, Arabic, Chinese and India-had their own traditional medicine. Archaeological evidence of knowledge of diseases and treatments from prehistoric times is disputed. Customs and customs between several tribes in Africa and Aboriginal Peoples in Australia and America give several views. In ancient times, priests or Shamans were responsible for diagnosing and treating diseases"<sup>3</sup>. In the regions where the first tamadduns formed, such as those noted above, the medical field

arose on the basis of local conditions and the natural needs of the population present in the area, and went through a long process, from the formation of its first manifestations to its current development. The main aspect as a feature of general importance for all ancient world States was carried out by representatives of religion in almost all regions of the world, regardless of the form in which the field of medical services to the population residing in a particular area takes.

The history of Medicine, the genesis of its development, is also studied in depth, like in other areas. In the field is "Valeriu Lucian Bologa (1892-1971) - the first Romanian professor<sup>4</sup> of medical history". The significant aspect is that in his study of the world States the genesis of the formation and development of Medicine was studied in a periodic sequence and consistently. During his career, the scientist Valeriu Lucian Bologa conditionally divided the types of medical services into Asia, Europe and other regions, the features inherent in each of them, as well as the development of forms of medical services, are analyzed on the basis of substantiated sources.

Medical service the genesis of contractual legal relations is directly related to the history of Medicine in the process of research. "It should be shown that the formative role of medical history has been discussed since the second half of the XIX century. A century later, noting the importance of the history of Medicine in the training of future doctors, V.L.To give bolo the opportunity to renew and expand the culture of general medical services to the doctor; showed a number of goals, such as focusing on one of the most beautiful chapters in the history of civilization and promoting respect for its wonderful heroes to the medical past"<sup>5</sup>. Professor V of keyicha.L.The study on the topic of medical Genesis, conducted by Bologa, was

<sup>1</sup> <https://www.britannica.com/science/history-of-medicine>

<sup>2</sup> R.Z. Simonyan The history of medicine: from ancient times to the present. Cheboksary Publishing House "Wednesday" 2020. C-12.; <https://pshreda.com/e-publications/e-publication-143.pdf>

<sup>3</sup> History of Medicine; <https://www.sciencedirect.com/topics/medicine-and-dentistry/history-of-medicine>

<sup>4</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5433581/>

<sup>5</sup> Bologa VL. Introduction - Pro domo. In: Bologa VL, Bercuş C, Brătescu G, Vătămanu N, editors. *Istoria Medicinii Universale*. [History of International Medicine]. Bucharest: Medical Publishing House; 1970. p. 15. [Google Scholar] [Ref list]

published as educational literature in all universities.

Medicine also developed in Europe during the Middle Ages. A special place in the training of medical service doctors in particular is occupied by the Medical School in Salerno, southern Italy, which was the first organized in Europe. "While the Salerno school did not create any remarkable genius and astonishing discovery, it was the parents of the great medieval schools of which the excellent medical institutions of its time would soon be established in the French cities of Montpellier, Paris, Bologna and Padua. Salerno welcomed women as medical students. The school was heavily indebted to the enlightened Holy Roman Emperor Frederick II. Because the city had a decree in 1221 that no one should practice medicine until it was publicly approved by the Masters of Salerno"<sup>6</sup>. The adoption of this decree was also tasked with supplying special scientists to medical authorities in all European countries who later laid the cornerstone in the provision of medical services for Europe. Later, students who studied at the medical high schools, whose names are mentioned above, performed the task of dissemination, as well as the application of their medical knowledge and qualifications in practice.

In the process of studying the existing contractual legal relations in the field of medical services, it is necessary to make a comparative-legal analysis of what form of medical services have developed in the same period in the countries of the world so that the one-sided nature of our research does not gain. In this sense, let's dwell on the genesis of some countries related to the provision of medical services. It was during this period that medicine developed in Japan in the same way as in other areas. "In 1570, a 15-volume medical work was published by Menase Dosan, who wrote at least five other works. The most important of these, Keytekishu (1574; a guide to medical practice), diseases or sometimes just symptoms - were divided into 51 groups

<sup>6</sup> <https://www.britannica.com/biography/Frederick-II-Holy-Roman-emperor>

and described; the work is unusual in that it contains a section on diseases of old age"<sup>7</sup>. The peculiarity of the relationship with the provision of medical services in Japan is that in the area there is a special emphasis on treatment mainly with medicinal plants in medical treatment procedures, as well as with natural decoctions and products with a medicinal property present in marine, ocean - water bodies. In addition, in a large part of Asian countries, rice-mediated, dietary treatment was also used in the medical care process.

During the period of the general government of Turkestan, archival documents and statistical reports related to the provision of services to the population in the field of Medicine appear a number of data typical of this period. In the process of scientific theoretical analysis of these sources, we should distinguish the following: "Chancellery of the Governor-General of Turkestan" (I.1st fund)," Samarkand regional administration " (I.17th fund)," Fergana region Directorate " " (I.19-Fund) funds are intended to be used. For example, the 1897 report of the local women and children's hospital in Tashkent recorded a list of the number of patients who applied to the hospital monthly for a year and their national composition. The diseases spread among them are divided into 21 groups"<sup>8</sup>. In particular, the city of Kokand in other cities serves as a first-class resource in the matter of the activities of the local women's and children's hospital<sup>9</sup>, the opening and operation of hospitals in Namangan<sup>10</sup> and old Marghilon<sup>11</sup>, and the provision of medical services. These data were given in official statistical figures, in addition to the fact that several individuals, known among the patient and the people as "healers", operated in an

<sup>7</sup> <https://www.britannica.com/science/history-of-medicine/Japan>

<sup>8</sup> In the State Archive of the Uzbek Center.17-foundation, 1-List, 28996-ish, P.2-8

<sup>9</sup> In the State Archive of the Uzbek Center.19-Foundation, 1-List, 36654-ish, P. 1-85.

<sup>10</sup> In the State Archive of the Uzbek Center.1-foundation, 16-list, 2065-ish, P.35.

<sup>11</sup> In the State Archive of the Uzbek Center.19-Foundation, 1-List, 24096-ish, P. 1-29.

agreed natura manner or on the basis of a cash payment, based on free prices. References to the use of medicinal plants and herbs mainly in the process of medical care of healers are recorded in historical sources.

Based on the population and local conditions in the cities, the first hospitals, rural field camps were established in rural areas. However, such conditions were not satisfactory for the medical needs of this period. In the press of this period, it was noted that "outpatient care is the most primitive and imperfect manifestation of medical activity"<sup>12</sup>. So, we can conclude that the quality of medical services in the so-called outpatient care, established in the XIX-XX centuries, is somewhat lower.

During the Tsardom of Tsarist Russia, Central Asia was studied by foreign tourists, along with local researchers. Several secret advisers visited Turkestan in order to explore the territory's natural capabilities, existing conditions, collect the necessary secret information and convey it to the center in a safe state, subjugate the occupied territories to the interests of the Empire. Among the archival data, the Secret Advisor Yu.A great deal of medical service information collected by Girs can be found. For Example, "Yu.Girs notes in his report that in 1905-07, the total 0.6% of zemstvo funds were directed to the medical field, while 37% were allocated to the governor general's House and field court and the provincial military governor. From this it can be seen that while the governor-general held the medical reins in his full hands, it was a work aimed exclusively at political goals, and he was hardly confused about the material needs of the industry and the prospects for expansion and development. As a result of financial factors such as this, this sector remained the same as it was established in the regions in the early period. On the second hand, it is revealed that there is a discrepancy between the amount received from the population and the amount allocated to the medical system. It was noted above that

<sup>12</sup> Successes of Russian medicine among the natives // Turkestan courier. 1909. No. 172.

doctors were brought to Turkestan mainly from the central regions and various benefits were applied"<sup>13</sup>. So, it is important to study the contractual legal features of medical services in the Turkestan Assr. At some point from the active laying of funds in the field of Medicine, political goals, in particular the Russification of the country, the goals of entering the family relations of the population with the provision of medical services, can be considered.

In the process of researching the genesis of the emergence and development of contractual legal relations in the field of medicine, we should note the following information about medical service in the Turkestan Assr: "and by 1918, a treatment institution (now the training base of the 1st District) in the former cadet corps building, a physiotherapy hospital named Toshsovet in 1926; an epidemiology hospital"<sup>14</sup>. With the establishment of this hospital, diseases that exist in the country that are contagious and difficult to treat for their time are treated and entered into medical contractual relations with the population.

It is in our country that several studies on the provision of medical services to the population are carried out. A significant aspect of these studies is the maxusu studies, which are directly related to the genesis of medical services. One such study was: "Prof. S. Of The Institute of history of the Academy of Sciences of the Republic of Uzbekistan.B.Under Shadmanova's responsible editorship, a monograph entitled" medicine and folk medicine in Turkestan in the late 19th – early 20th centuries"was published"<sup>15</sup>. Hence, the historical features of the genesis of the development of medical services in the

<sup>13</sup> Khurshid Jumanazarov. UzRFA Institute of history Financial in the medical field of the Turkestan general governorate  
siyosatihttps://www.researchgate.net/publication/376784054  
\_Turkiston\_general\_gubernatorligining\_tibbiy\_sohadagi\_m  
oliyaviy\_siyosati

<sup>14</sup> https://www.archive.uz/post/ozbekistonda-tibbiyot-muassasalari-tarixiga-qisqacha-nazar-arxiv-hujjatlari-asosida

<sup>15</sup> https://academy.uz/uz/news/XIX-asr-oxiri-xx-asr-boshlarida-turkistonda-tibbiyot-va-xalq-tabobati-nomli-monografiya-nashr-etildi

Republic of Uzbekistan have been thoroughly studied, but from a legal point of view, the issue of contractual legal relations has not been studied. Therefore, at the same time, in our eyes, there is a need to study the issue of medical services in the civil law system on the basis of contractual law.

The Turkestan study of this period was studied not only by Russian researchers, but also by visiting scientists from a foreign country. In particular, on the issue of Turkestan Medicine of the XIX century, it was specially dealt with by scientists from several foreign countries, and brochures were written in the form of research work or travelogue. Including:

- Operated at the U.S. Embassy in the Russian empire, making a trip to Central Asia in 1873, during the trip, the 2-volume "Turkistan: Notes of a Journey in Russian Turkistan, Kokand, Bukhara and Kuldja. New York. Scriber Armstrong @ Co.1876 " by author Yu.Skyler;

- A member of the Geographical Society of the kingdom of Great Britain, who arrived in Central Asia via Russia in 1882 and published Volume 2 "Russian Central Asia including Kuldja, Bukhara, Khiva and Merv // London. 1885 " by H.Lansdell;

- A.Mycenaean was an employee of the Institute of Anthropology of Great Britain and Ireland, who came to Central Asia for research and summarized the research results, "In Russian Turkestan: a Garden of Asia and its People // London, 1903;

- Arrived in Central Asia with a special expedition in 1896-1898, a member of the Royal Danish Geographical Society, "the Emir of Bukhara and his Country //Nielsen@Lydichf. Copenhagen. 1911" by O.Olufsen et al. The only significant thing is that the main emphasis in these studies is on the complex issue of providing medical services to the population in the territory of Central Asia, the conditions of medical services are described in the figures of the current situation and statistics in the colonial conditions.

We were able to objectively assess the issues of medical services in Turkestan by comparative comparison of the studies written by foreign scientists, the names of which were noted above, with existing archival sources.

Because, due to the fact that a large part of the archival sources dedicated to Turkestan are precisely representatives of the Tsarist Russia mission, there is a factor in favoring the realities associated with medical services from a political point of view. Yu.Skyler, H.Lansdell, A.Miken, O.The identification of existing archival documents with the works of researchers such as Olufsen gives us the opportunity in our research from one-sided thinking to scientific analysis of contractual relations related to the provision of medical services in Turkestan in the 19th and 20th centuries, to understand achievements and shortcomings.

In Turkestan, in addition, folk medicine, methods of diagnosis formed over the centuries, the identification of diseases and existing medical relations were also regulated by traditions, work circulation and painting-duties. In the matter of coverage, treatment and diagnosis of this medical relationship, we should note the following First-Class sources: "Jomi ' of Ibn Baytor(the Holy)", "Tazkiya uli-l-tool "of Antioch, "Ma la yasa' li-t" of Sheikh Yusuf Baghdadi- tabib jahlah" (Tabib's disappointment is from his ignorance), "Irshad" by Shaykh Ismail bn Haibatullah, "Tazkirat as-suwaiidiya" by Abu Ishaq Ibrahim ibn Muhammad, "Ihtiyoroti Badi'i" by Hakim Haji Zayniddin attor, "Tuhfat ul-MU'miniyn" by Hakim Mir Muhammad Mu'min Tungani, "Tuhfat ul-MU'miniyn" by Hakim Mir Abdul Hamid, "Tuhfat ul-MU'miniyn" by Hakim Mir Muhammad Afzal's books and other Indian books<sup>16</sup> and the writings of other authors on medicine-in particular, medical services-are considered desirable to record. The main issue in all of the works is the treatment pathways, the healing properties of medicinal plants, as well as the ethics of Medicine, the regulation of existing relations between the physician (medical service provider) and the patient (customer), among other issues.

It is known that in the 20s of the XX century, as a result of the transfer of national-

<sup>16</sup> Bositkhan in Zahidjan Shoshiy. Favoid ul-adviya and mavoid ul-agziyya. (The benefits of drugs and the interests of the table of dishes). Tabdil and lyricist M. Hasani. Tashkent: Science, 2007. P.9.

territorial delimitation in our country, the former Uzbek SSR arose. As a component of social life, a special approach to the issue of medical services was of course also necessary in this state. During this period, the legal status of all institutions as a legal entity was covered by state funds, as well as the full provision of medical organizations. However, during this period in the country also showed the activity of healers in a nolegal manner. We consider it advisable to cite the following information on the topic of genesis of the emergence and development of contractual legal relations in the field of Medicine in the former Uzbek SSR: "the fund in the storage of the Bukhara Regional State Archive-1023, list-1, No. 180, in the assembly № 1441, approved by the Soviet of people's commissars of the Uzbek SSR on November 23, 1944. This archival document shows the activities planned to be carried out in connection with the overhaul of medical institutions, as well as the funds allocated to them"<sup>17</sup>.

The information in the archival documents described above confirms the fact that the provision of funds for medical services is fully carried out by the state. Therefore, due to the Second World War, there was a need for the overhaul of medical institutions in Uzbekistan. The reason is, it was during this period that a large influx of wounded soldiers from the front became a natural necessity due to their deployment to a relatively peaceful Uzbekistan for the purpose of treatment. During this period, almost medicine was regulated by documents adopted by the ISS (Soviet of people's commissars) of the Uzbek SSR. Practically no contractual relationship was entered into with the patient visiting the medical institution. Mainly from the point of view of administration, some documents were signed by the patient (client) and the doctor acted as a civil obligation. The unsuccessful completion of the medical procedure or similar frustrating events resulted in the answers to "God's will", "we did everything we could but could not find the opportunity to save". No

<sup>17</sup> <https://www.archive.uz/post/ozbekistonda-tibbiyot-muassasalari-tarixiga-qisqacha-nazar-arxiv-hujjatlari-asosida>

contractual relationship was entered into between the doctor and the patient on legal grounds. But in some sources there are references to gratitude for the doctor, such as "salary", "service fee".

**On the basis of the above data, we can see that the contractual relationship of medical services in Central Asia, in particular, Uzbekistan, has much more ancient roots.**

As a result of a scientific-theoretical analysis of the genesis of medical service contractual legal relations, we came to the following conclusions:

first of all, consider that the genesis of the emergence and development of contractual legal relations in the field of Medicine is important for the development of modern medical services taking into account the specific aspects of the existing national mentality.

secondly, the activities of the author, thinker, qomusian scholar Abu Ali ibn Sino and the genesis of medical contractual relations during the Timurid period, on the basis of the works of Hafiz familiar Bukhari, Fazullah Ibn Rozbikhan and other historical scholars of the Shaybanid era, the ashtarkhani period in the XVI-XVII centuries, as well as the development of medical services to the population during the middle Asian khanates, it is necessary to analyze the methods of medical services, remuneration issues, contractual relations concluded orally and in writing.

thirdly, during the Tsarist Russia, the relationship in the field of Medicine was studied, the issue of the formation and development of early medical organizations in Turkestan, as well as the contractual relationship between the customer (patient) and the medical organization.

#### References:

1. <https://www.britannica.com/science/hi-story-of-medicine>
2. R.Z. Simonyan The history of medicine: from ancient times to the present. Cheboksary Publishing House "Wednesday" 2020. C-12.;

- <https://phsreda.com/e-publications/e-publication-143.pdf>
3. History of Medicine; <https://www.sciencedirect.com/topics/medicine-and-dentistry/history-of-medicine>
  4. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5433581/>
  5. Bologa VL. Introduction - Pro domo. In: Bologa VL, Bercuş C, Brătescu G, Vătămanu N, editors. *Istoria Medicinei Universale. [History of International Medicine]*. Bucharest: Medical Publishing House; 1970. p. 15. [Google Scholar] [Ref list]
  6. <https://www.britannica.com/biography/Frederick-II-Holy-Roman-emperor>
  7. <https://www.britannica.com/science/history-of-medicine/Japan>
  8. In the State Archive of the Uzbek Center.17-foundation, 1-List, 28996-ish, P.2-8
  9. In the State Archive of the Uzbek Center.19-Foundation, 1-List, 36654-ish, P. 1-85.
  10. In the State Archive of the Uzbek Center.1-foundation, 16-list, 2065-ish, P.35.
  11. In the State Archive of the Uzbek Center.19-Foundation, 1-List, 24096-ish, P. 1-29.
  12. Successes of Russian medicine among the natives // *Turkestan courier*. 1909. No. 172.
  13. Khurshid Jumanazarov. UzRFA Institute of history Financial in the medical field of the Turkestan general governorate siyosati [https://www.researchgate.net/publication/376784054\\_Turkiston\\_general\\_gubernatorligining\\_tibbiy\\_sohadagi\\_moliyaviy\\_siyosati](https://www.researchgate.net/publication/376784054_Turkiston_general_gubernatorligining_tibbiy_sohadagi_moliyaviy_siyosati)
  14. <https://www.archive.uz/post/ozbekistonda-tibbiyot-muassasalari-tarixiga-qisqacha-nazar-arxiv-hujjatlari-asosida>
  15. <https://academy.uz/uz/news/XIX-asr-oxiri-xx-asr-boshlarida-turkistonda-tibbiyot-va-xalq-tabobati-nomli-monografiya-nashr-etildi>
  16. Bositkhan in Zahidjan Shoshiy. *Favoid ul-adviya and mavoid ul-agziyya. (The benefits of drugs and the interests of the table of dishes)*. Tabdil and lyricist M. Hasani. Tashkent: Science, 2007. P.9.
  17. <https://www.archive.uz/post/ozbekistonda-tibbiyot-muassasalari-tarixiga-qisqacha-nazar-arxiv-hujjatlari-asosida>