

**TOSHKENT DAVLAT YURIDIK UNIVERSITETI HUZURIDAGI ILMIIY  
DARAJALAR BERUVCHI DSc.07/03.06.2023.Yu.22.04 RAQAMLI ILMIIY  
KENGASH**

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**TOSHKENT DAVLAT YURIDIK UNIVERSITETI**

**BOBOKULOV SHOXNAZAR OCHILOVICH**

**YERDAN FOYDALANISH VA MUHOFAZA QILISHNI HUQUQIY  
TARTIBGA SOLISH MUAMMOLARI**

12.00.06 – Tabiiy resurslar huquqi. Agrar huquq. Ekologik huquq

**yuridik fanlar doktori (DSc) dissertatsiyasi  
AVTOREFERATI**

**Toshkent – 2025**

**Doktorlik (DSc) dissertatsiyasi avtoreferati mundarijasi**

**Content of the doctoral (DSc) dissertation abstract**

**Оглавление автореферата докторской (DSc) диссертации**

**Bobokulov Shoxnazar Ochilovich**

Yerdan foydalanish va muhofaza qilishni huquqiy tartibga solish muammolari.....3

**Bobokulov Shokhnazar Ochilovich**

The legal issues of regulation of the land use and protection .....30

**Бобокулов Шохназар Очилович**

Проблемы правового регулирования использования и охраны земель.....53

**E’lon qilingan ishlar**

List of published works

Список опубликованных работ ..... 58

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**Toshkent – 2025**

**Fan doktori (Doctor of Science) dissertatsiyasi mavzusi O‘zbekiston Respublikasi Oliy ta’lim, fan va innovatsiyalar vazirligi huzuridagi Oliy attestatsiya komissiyasida B 2024.1.DSc/Yu290. raqam bilan ro‘yxatga olingan.**

Dissertatsiya ishi O‘zbekiston Respublikasi jamoat xavfsizligi universitetida bajarilgan.

Dissertatsiya avtoreferati uch tilda (o‘zbek, ingliz, rus (rezyume)) Ilmiy kengashning veb-sahifasida (<https://tsul.uz/uz/fan/avtoreferatlar>) va “ZiyoNET” Axborot ta’lim portalida ([www.ziynet.uz](http://www.ziynet.uz)) joylashtirilgan.

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Dissertatsiya himoyasi Toshkent davlat yuridik universiteti huzuridagi DSc.07/03.06.2023.Yu.22.04 raqamli Ilmiy kengashning 2025-yil 12-aprel kuni soat 10.00 dagi majlisida bo‘lib o‘tadi (Manzil: 100047, Toshkent shahar, Sayilgoh ko‘chasi, 35-uy. Tel.: (99871) 233-66-36 faks: (99871) 233-37-48, e-mail: [info@tsul.uz](mailto:info@tsul.uz)).

Dissertatsiya bilan Toshkent davlat yuridik universiteti Axborot-resurs markazida tanishish mumkin (1147-raqam bilan ro‘yxatga olingan). (Manzil: 100047, Toshkent shahar, Amir Temur ko‘chasi, 13. Tel.: (99871) 233-66-36).

Dissertatsiya avtoreferati 2025-yil 28-mart kuni tarqatildi.

(2025-yil 28-martdagi -raqamli reestr bayonnomasi).

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## **KIRISH (Doktorlik (DSc) dissertatsiyasi annotatsiyasi)**

**Dissertatsiya mavzusining dolzarbligi va zarurati.** Dunyoda yer nihoyatda noyob tabiiy resurs bo'lib, ekologik, ijtimoiy, iqtisodiy, demografik vaziyat, ta'bir joiz bo'lsa, siyosiy barqarorlik ham ko'p jihatdan uning holatiga, undan oqilona va samarali foydalanish darajasiga bevosita bog'liq. Bugungi kunda salbiy antropogen omillar ta'siri hamda tabiiy resurslardan oqilona foydalanmaslik oqibatida degradatsiyaga uchragan sug'oriladigan yer maydonlari miqdori ko'paymoqda. Dunyoda qishloq xo'jaligi yerlarining 2 milliard gektari (14,9%) yaroqsiz ahvolga kelib qolgan<sup>1</sup>. Shuningdek, BMTning ma'lumotlariga ko'ra, yiliga qariyb 6 million gektar yer cho'llanishga uchramoqda, haydaladigan yerlarning 40 foizidan ortig'i muomaladan chiqib, qishloq xo'jaligi uchun mutloq yaroqsiz holatga kelgan<sup>2</sup>. Bu holat oziq-ovqat yetishtirishni xavf ostiga qo'yadi, biologik xilma-xillikka tahdid soladi va iqlim inqirozini yanada kuchaytiradi. Shu nuqtai nazardan yerdan foydalanish va muhofaza qilishga oid qonunchilikni rivojlantirish va ushbu sohada vujudga keladigan ijtimoiy munosabatlarni huquqiy jihatdan tartibga solish eng muhim muammolardan hisoblanadi.

Jahonning yetakchi ilmiy tadqiqot markazlari, muassasalari tomonidan yerdan foydalanish va muhofaza qilish borasida ko'plab ilmiy-tadqiqot ishlari olib borilgan. Dunyoda yerdan foydalanish, iqlim o'zgarishi va biologik xilma-xillik hamda ekologik muammolarni hal qilish uchun innovatsion texnologiyalar va strategiyalarni ishlab chiqish masalalari tobora dolzarb bo'lib bormoqda. Ushbu muammolarning hal qilinishi yerdan foydalanish va muhofaza qilishda raqamlashtirish masalalari, yerdan foydalanish huquqi kafolatlarining ta'minlanishi, ekologik jinoyatlar uchun yuridik va jismoniy shaxslarning javobgarligi, ijtimoiy faoliyatga maqsadli ta'sir ko'rsatish orqali barqaror rivojlanishga erishishning huquqiy shart-sharoitlari, iqtisodiy rivojlanish sharoitida barqaror rivojlanishning huquqiy asoslari, biologik xilma-xillikni muhofaza qilishning qonunchilik asoslari hamda yer munosabatlari sohasida qonun hujjatlarini tizimlashtirish hamda yer (tuproq)ga salbiy ta'sir ko'rsatishning oldini olish va ta'qiqlashning tashkiliy-huquqiy chora-tadbirlarini takomillashtirishni talab etadi. Binobarin, jahonda yerdan foydalanish va muhofaza qilish sohasidagi qonun hujjatlari samaradorligini oshirish, bu boradagi huquqiy hujjatlar tizimini barqarorlashtirish va ularni yagona majmuaga keltirish, ijrosini ta'minlash muhim ilmiy-amaliy ahamiyatga ega. Bu esa, o'z navbatida, yerga oid munosabatlarni tartibga soluvchi qonunlarni yangi normalar bilan to'ldirish va ularning ta'sirini yanada kuchaytirish bo'yicha ilmiy xulosa, amaliy takliflar ishlab chiqish zaruratini tug'dirmoqda.

Yangi O'zbekistonda yerdan foydalanish va muhofaza qilish hamda iqlim o'zgarishi masalalariga alohida e'tibor berilmoqda. Bu borada O'zbekistonning ham BMT, YuNESKO, FAO kabi xalqaro tashkilotlar hujjatlariga mos ravishda yer resurslarini muhofaza qilish, va ulardan oqilona foydalanish, yer mulkdorlari,

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<sup>1</sup> Центр экономических исследований Узбекистана, [www.cer.uz](http://www.cer.uz)

<sup>2</sup> "Iqlim o'zgarishi sharoitida yer resurslarini barqaror boshqarish" mavzusidagi Respublika ilmiy-amaliy seminar maqolalar to'plami// Toshkent – 2017 yil, 21 aprel. 2-3 b.

egalari, yerdan foydalanuvchilarning huquqlari hamda qonuniy manfaatlarini himoya qilish chora-tadbirlari tizimini yaratish va bu sohada qonun ustuvorligiga erishish maqsadida ijtimoiy-iqtisodiy, siyosiy hamda ekologik ahamiyatga molik islohotlar amalga oshirilgan. Zero, davlatning iqtisodiy salohiyati, jamiyatning moddiy negizi va fuqarolarning farovonligi ko'p jihatdan tabiatning bebaho boyligi hisoblangan yerga nisbatan qonuniylikni ta'minlash, yerdan qonun talablari asosida foydalanish, yer qonunchiligini buzilishiga yo'l qo'ymaslik, yer munosabatlari sohasida huquq-tartibotni ta'minlash kabi vazifalarni hal qilishga bog'liq bo'ladi<sup>1</sup>. Mamlakatimizda iqtisodiy islohotlar amalga oshirilayotgan paytda yer resurslarini huquqiy muhofaza qilish va undan oqilona foydalanishni ta'minlash mexanizmini yanada takomillashtirishga alohida e'tibor berilgan.

O'zbekiston Respublikasi Prezidentining 2022-yil 28-yanvardagi PF-60-son "2022-2026-yillarga mo'ljallangan "Yangi O'zbekiston taraqqiyot strategiyasi" to'g'risida", 2021-yil 8-iyundagi "Yer munosabatlarida tenglik va shaffoflikni ta'minlash, yerga bo'lgan huquqlarni ishonchli himoya qilish va ularni bozor aktiviga aylantirish chora-tadbirlari to'g'risida", 2024-yil 18-iyundagi "Qishloq xo'jaligiga mo'ljallangan yer uchastkalarini ijaraga berish tartibini takomillashtirish bo'yicha qo'shimcha chora-tadbirlar to'g'risida" farmonlari, O'zbekiston Respublikasi Vazirlar Mahkamasining 2021-yil 24-noyabrdagi "Qishloq xo'jaligiga mo'ljallangan yer uchastkalarini ijaraga berish tartibiga doir normativ-huquqiy hujjatlarni tasdiqlash to'g'risida" 709-son, 2022-yil 14-fevraldagi "Qishloq xo'jaligiga mo'ljallanmagan yer uchastkalarini xususiyashtirish to'g'risida" O'zbekiston Respublikasi Qonunini amalga oshirish chora-tadbirlari haqida 71-son qarorlari hamda mavzuga oid boshqa normativ-huquqiy hujjatlarda belgilangan vazifalarni amalga oshirishga ushbu dissertatsiya tadqiqoti muayyan darajada xizmat qiladi.

**Tadqiqotning respublika fan va texnologiyalari rivojlanishining ustuvor yo'nalishlariga mosligi.** Mazkur tadqiqot respublika fan va texnologiyalari rivojlanishining I. "Axborotlashgan jamiyat va demokratik davlatni ijtimoiy, huquqiy, iqtisodiy, madaniy, ma'naviy-ma'rifiy rivojlantirishda innovatsion g'oyalar tizimini shakllantirish va ularni amalga oshirish yo'llari" ustuvor yo'nalishiga mos keladi.

**Dissertatsiyaning mavzusi bo'yicha xorijiy ilmiy tadqiqotlar sharhi<sup>2</sup>.** Yerdan foydalanish va ularni muhofaza qilish sohasida huquqiy tadqiqotlar rivojlangan mamlakatlarning oliy ta'lim muassasalari va ilmiy markazlarida, jumladan Cambridge University, Manchester University, Oxford University, Centre for Environmental Policy Imperial College London (Buyuk Britaniya), The

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<sup>1</sup> O'zbekiston Respublikasi Prezidenti Sh.M.Mirziyoyevning "Yangi O'zbekiston taraqqiyot strategiyasi asosida demokratik islohotlar yo'lini qat'iy davom ettiramiz" mavzusidagi nutqi //Xalq so'zi, 2021 yil 7 noyabr.

<sup>2</sup> Dissertatsiya mavzusi bo'yicha xorijiy ilmiy tadqiqotlar sharhi: //www.ox.ac.uk; https://www.cam.ac.uk; http://www.manchester.ac.uk; http://www.hu-berlin.de; www.hs-mittweida.de; http://www.sorbonne-university.com; http://www.kyoto-u.ac.jp/en; https://www.useoul.edu; http://web.mit.edu; https://www.ecology.uga.edu; https://www.indiana.edu; http://www.sggw.pl; http://www.uu.se; https://www.uu.nl/en; www.rug.nl; http://www.wfndia.org; http://www.mq.edu.au; https://www.era.int; https://www.ut.ee; https://www.k6k.ee; https://www.msu.ru; www.iseu.bsu.by.

University of Applied Sciences Mittweida, Humboldt Universitat (Germaniya), The University of Sorbonne (Fransiya), National University of Seoul (Janubiy Koreya), Kyoto University (Yaponiya), Indiana University, Yale Center for Environmental Law and Policy, IUCN Academy of Environmental Law, Odum School of Ecology University of Georgia, Massachusetts Institute of Technology, (AQSh), Warsaw University of Life Sciences (Polsha), Stockholm Environmental Law and Policy Centre, Centre for Environmental Law Macquarie University (Avstraliya), The Centre for Environmental Law (Hindiston), Tartu Ülikool, Estonian Environmental Law Centre (Estoniya), Moskva davlat universiteti (Rossiya) olib borilmoqda.

Jahonda yerdan foydalanish va ularni muhofaza qilish sohasida amalga oshirilgan tadqiqotlar natijasida quyidagi ilmiy natijalarga erishilgan: ekologik jinoyatlar uchun yuridik va jismoniy shaxslarning javobgarlik masalalari sohaning yetuk olimlari tomonidan (IUCN Academy of Environmental Law, AQSh) tadqiq qilingan. Shuningdek, ijtimoiy faoliyatga maqsadli ta'sir ko'rsatish orqali barqaror rivojlanishga erishishning huquqiy shart-sharoitlari, yer resurslaridan foydalanish va muhofaza qilishga oid qonun hujjatlari Kyoto Universityeti (Yaponiya) o'rganilgan. Iqtisodiy rivojlanish sharoitida barqaror rivojlanishning huquqiy asoslari The National Centre for Environmental Education (Ispaniya) ishlab chiqilgan. Biologik xilma-xillikni muhofaza qilishning qonunchilik asoslari National University of Seoul, (Janubiy Koreya) hamda yer munosabatlari sohasida qonun hujjatlarini tizimlashtirish masalalari Tartu Ülikool, (Estoniya) ishlab chiqilgan. Shuningdek, GFR, Avstriya, Daniya, Ispaniya, AQSh, XXR, shuningdek, Rossiya Federatsiyasi, Qirg'iziston Respublikasi, Tojikiston, Qozog'iston, Ozarboyjon, Gruziya, Estoniya kabi davlatlarning yerlarni jinoyat-huquqiy muhofaza qilishga oid qonunchiligini o'rganish, ushbu davlatlar milliy qonunchiligida yer (tuproq)ga salbiy ta'sir ko'rsatishning oldini olish va ta'qiqlashning turli huquqiy mexanizmlariga bag'ishlangan takliflar ishlab chiqilgan.

Hozir dunyoning rivojlangan davlatlarida ustuvor masalalardan biri sifatida yer resurslarini muhofaza qilish, yerlardan oqilona foydalanish sohasida qonunchilikni rivojlantirish istiqbollari bo'yicha ilmiy tadqiqotlar olib borilmoqda. Xususan, ushbu tadqiqotlarda yer resurslarini boshqarish, yerga yetkazilgan zararning oldini olish, bartaraf etish va qoplashga oid ijtimoiy munosabatlarni huquqiy tartibga solish, yerdan foydalanish va muhofaza qilishga oid qonunchilikni takomillashtirishga doir tadqiqotlar olib borilmoqda.

**Muammoning o'rganilganlik darajasi.** Mamlakatimizda mustaqillik yillarida yerdan foydalanish va muhofaza qilishning turli jihatlariga bag'ishlangan ilmiy tadqiqot ishlari olib borilgan.

Xususan, mamlakatimizda yer huquqi **nuqtai nazaridan yerdan foydalanish va muhofaza qilishning ayrim masalalari huquqshunos olimlardan** I.J.Jalilov, U.B.Bozorov, M.B.Usmonov, Yu.A.Juraev, J.T.Xolmo'minov, Sh.X.Fayziev, Dj.I.Safarov, S.S.Hamroev, N.K.Skripnikov, G.G.Fayzullaeva, G.Sh.Uzakova, M.M.Nurmatov, N.Sh.Rajabov, O.X. Narzullaev, A.Abdullaev, U.T.Ayubov, R.H.Kenjaev, D.M.Umarov, Sh.R.Qobilov, M.J.Maxmadaminov va

O.B.Tursunovlarning ilmiy ishlarida o‘z aksini topgan<sup>1</sup>.

Yerdan foydalanishning fuqarolik-huquqiy va xo‘jalik-huquqiy masalalari, xususan, yerdan foydalanishning shartnomaviy tartibi, yerga nisbatan mulk huquqi, yer qonunchiligini buzganlik uchun fuqarolik-huquqiy javobgarlikni qo‘llash asoslari, xo‘jalik yurituvchi sub’ektlarning yerdan foydalanishi masalalari mamlakatimizda sivilist olimlardan H.R.Rahmonqulov, I.B.Zokirov, R.J.Ruziev, O.Okyulov, K.Q.Rashidov, B.B.Samarxo‘jaev, Sh.N.Ruzinazarov, F.Y.Shodmonov, D.M.Karaxodjaeva, K.Sindarov, M.X.Baratov, V.Ergashev, I.M.Mamarayimov, N.Axmonov va K.Kuchkinovlarning ilmiy izlanishlarida o‘z aksini topgan<sup>2</sup>.

Yerni muhofaza qilishning jinoyat, ma‘muriy va nazariy-huquqiy asoslari esa huquqshunos olimlardan M.Rustambayev, M.A.Rajabova, F.Tohirov, M.Qodirov, A.Yakubov, R.Kabulov, H.Isloxodjaev, X.Odilqoriev, M.Najimov, A.Li, E.Hojiev, F.Raximov va F.Samig‘jonovlar tomonidan soha qonunchiligi asosida o‘rganilgan<sup>3</sup>.

Yerdan foydalanish va muhofaza qilishni huquqiy tartibga solish masalalari MDH davlatlarida huquqshunos olimlardan O.S.Kolbasov, N.I.Krasnov, I.A.Ikoniskaya, M.M.Brinchuk, A.E.Erenov, Y.G.Jarikov, A.A.Zabelishenskiy, B.V.Erofeev, O.I.Krassov, G.S.Bashmakov, A.S.Stamkulov, O.V.Nazimkina, N.V.Karlova, P.A.Dedova, N.A.Sirodov, L.B.Sheynin, F.X.Adixanov, Y.N.Kolotinskaya va D.B.Goroxovlar tomonidan o‘rganilgan<sup>4</sup>.

N.Dikkinson, J.A.Omotola, R.Grov-Vayt, E.Vikkeri, A.Kalxan, Y.Fang, G.Vinter, K.Duner, L.Kremer, J.Nasset, N.A.Robinson, G.V.Rengeling, R.Steinberg, D.Xuges, I.O.Krasnova va boshqa olimlar tomonidan yaratilgan ilmiy ishlarda Yevropa Ittifoqi, AQSh, GFR, Fransiya singari mamlakatlarning ekologik, shu jumladan yer qonunchiligi bo‘yicha tajribasi tahlil qilingan<sup>5</sup>.

Ekologik qonunchilik, uni takomillashtirish va kodifikatsiyalash istiqbollarning ba‘zi masalalari B.B.Alixanov, Yu.Sh.Shodimetov, A.N.Nigmatov, G.Abdullaeva va N.F.Reymers singari ekolog olimlarning izlanishlarida ham o‘rganilgan<sup>6</sup>.

Biroq, ushbu huquqshunos olimlarning ishlarida yerdan foydalanish va muhofaza qilishni huquqiy tartibga solish muammolari O‘zbekiston Respublikasining milliy qonunchiligi asosida, yer huquqi nuqtai nazaridan hozirgi ijtimoiy-iqtisodiy sharoitlarni hisobga olgan holda kompleks jihatdan to‘liq tadqiq etilmagan bo‘lib, bu ushbu tadqiqot ishi mavzusining dolzarbligi va yangiligidan dalolat beradi.

**Dissertatsiya mavzusining dissertatsiya bajarilayotgan oliy ta‘lim muassasasining ilmiy-tadqiqot ishlari rejalari bilan bog‘liqligi.** Dissertatsiya tadqiqoti O‘zbekiston Respublikasi jamoat xavfsizligi universitetining 2022-2027 yillarda ilmiy-tadqiqot ishlarini rivojlantirishning istiqbolli rejasining xususiy

<sup>1</sup> Izoh: Ushbu olimlarning asarlari foydalanilgan adabiyotlar ro‘yxatida keltirilgan.

<sup>2</sup> Izoh: Ushbu olimlarning asarlari foydalanilgan adabiyotlar ro‘yxatida keltirilgan.

<sup>3</sup> Izoh: Ushbu olimlarning asarlari foydalanilgan adabiyotlar ro‘yxatida keltirilgan.

<sup>4</sup> Izoh: Ushbu olimlarning asarlari foydalanilgan adabiyotlar ro‘yxatida keltirilgan.

<sup>5</sup> Izoh: Ushbu olimlarning asarlari foydalanilgan adabiyotlar ro‘yxatida keltirilgan.

<sup>6</sup> Izoh: Ushbu olimlarning asarlari foydalanilgan adabiyotlar ro‘yxatida keltirilgan.

huquqiy fanlar va qonunchilik rivojining moddiy-protsessual asoslarini takomillashtirish loyiha doirasida bajarilgan.

**Tadqiqotning maqsadi** O‘zbekiston Respublikasining yer qonunchiligi hujjatlarini takomillashtirish bilan bog‘liq huquqiy munosabatlarni kompleks tahlil qilish, nazariy va amaliy jihatlarini o‘rganish asosida aniqlangan muammolarning yechimini topish, ushbu sohada qonun hujjatlari tegishli normalarini takomillashtirish va uni qo‘llash amaliyoti samaradorligini oshirish yo‘llarini topishdan iborat.

**Tadqiqot vazifalari:**

mustaqillik yillarida yerdan foydalanish va muhofaza qilishga oid qonunchilikning rivojlanishi tarixini tahlil qilish hamda yerdan foydalanish va muhofaza qilishni huquqiy tartibga solishda vakolatli davlat organlari faoliyatining ilmiy-huquqiy mohiyatini ochib berish;

yerdan foydalanish huquqi tushunchasini ilmiy-nazariy jihatdan asoslash va ochib berish shuningdek, yerdan foydalanish huquqini tasniflash mezonlarini tahlil qilish asosida turlarga ajratish;

yerdan foydalanishning shartnomaviy-huquqiy tartibini o‘rganish va uni takomillashtirish bo‘yicha takliflar ishlab chiqish hamda yerdan foydalanish huquqining vujudga kelishi tartibini o‘rganish;

yerdan foydalanish huquqining vujudga kelishida yuridik faktlarning ahamiyatini ochib berish hamda yerga bo‘lgan huquqlarning vujudga kelish asosi sifatida yerga bo‘lgan huquqni davlat ro‘yxatiga olish masalalarini tahlil etish;

yerdan foydalanish huquqini cheklash, to‘xtatish va bekor bo‘lish asoslarini tadqiq qilish shuningdek, yerga bo‘lgan huquqni bekor bo‘lish asosi sifatida jamoat ehtiyojlari uchun yer uchastkasini kompensatsiya evaziga olib qo‘yish, qayta sotib olish masalalarini o‘rganish;

yerlarni muhofaza qilishga oid chora-tadbirlarning yuridik mohiyatini ochib berish hamda yerlarni muhofaza qilish asosi sifatida yerdan foydalanish huquqi kafolatlari va ularning ta‘minlanishi masalalarini tadqiq etish;

xorijiy mamlakatlarning yerdan foydalanish va muhofaza qilishni huquqiy tartibga solish bilan bog‘liq yer qonunchiligi normalarini qiyosiy-huquqiy tahlil qilish hamda yerdan foydalanish va muhofaza qilishni huquqiy tartibga solishga oid qonunchilik asoslarini takomillashtirishga qaratilgan ilmiy-amaliy tavsiyalar va takliflar ishlab chiqish.

**Tadqiqotning ob‘ektini** yer qonunchiligi hujjatlarini takomillashtirish bilan bog‘liq huquqiy munosabatlar tashkil etadi.

**Tadqiqotning predmetini** O‘zbekiston Respublikasi va xorijiy mamlakatlarning yer qonunchiligi hujjatlari, ularni kodifikatsiyalash bilan bog‘liq xorijiy davlatlar tajribasi, mavzuga oid ilmiy adabiyotlar hamda ushbu sohada qonun hujjatlarini qo‘llash amaliyoti tashkil etadi.

**Tadqiqotning usullari.** Dissertatsiya tadqiqoti jarayonida kuzatish, tahlil qilish, umumlashtirish, mantiqiylik, tizimlilik, statistik, monografik, tarixiy, qiyosiy-huquqiy kabi tadqiqot usullardan foydalanildi.

**Tadqiqotning ilmiy yangiligi** quyidagilardan iborat:

ijaraga berilgan yer uchastkasini yoki uning bir qismini ikkilamchi ijaraga berishning qonuniy tartibini belgilash hamda qishloq xo‘jaligiga mo‘ljallangan yer uchastkasini ikkilamchi ijaraga berish shartlari, muddatlari, ikkilamchi ijaraga berganlik uchun haq undirish tartibi va miqdorlarini belgilash hamda ikkilamchi ijaraga berish shartnomasini davlat ro‘yxatidan o‘tkazilishi zarurligi asoslantirilgan;

yer uchastkalarini kompensatsiya evaziga jamoat ehtiyojlari uchun olib qo‘yishga asos bo‘ladigan maqsadlar hamda yer uchastkalarini xususiylashtirish sub‘ektlari tomonidan o‘ziga doimiy foydalanish (egalik qilish), ijara yoxud meros qilib qoldiriladigan umrbod egalik qilish huquqi asosida tegishli bo‘lgan yer uchastkalarini sotib olish kabi shakllari ilmiy asoslantirilgan;

yer uchastkasi qurilish ishlarini amalga oshirish huquqi bilan realizatsiya qilinganda bino, imorat, inshootlarni qurish jarayonida yer uchastkasini saqlash vazifasini bajarish majburiyati yer uchastkasi egasi, foydalanuvchisi va mulkdoriga yuklanishi, qishloq xo‘jaligiga mo‘ljallanmagan yer uchastkalari toifasiga va foydalanish maqsadiga ko‘ra xususiylashtirilishi asoslab berilgan;

jamoat ehtiyojlari uchun o‘zganing yer uchastkasidan cheklangan tarzda foydalanish huquqi (omnaviy servitut) belgilanishi zarurati mavjudligi, servitut uchun haq to‘lash, servitut belgilangan yer uchastkasi uchun yer solig‘i (ijara haqi) summasini, shuningdek servitutdan foydalanish jarayonida yer egalari, yerdan foydalanuvchilar, yer uchastkalarining ijarachilari va mulkdorlariga yetkazilgan zararni (boy berilgan foydani) kompensatsiya qilish maqsadida belgilanishi asoslab berilgan;

chet el yuridik va jismoniy shaxslarining mulki bo‘lgan yer uchastkasini savdo va xizmat ko‘rsatish sohasi ob‘ekti yoxud turar joy hamda boshqa bino bilan birga yoki binoning bir qismi bilan birga jamoat ehtiyojlari uchun qayta sotib olish, qonun hujjatlarida nazarda tutilgan kafolatlar ta‘minlangan holda xalq deputatlari viloyatlar va Toshkent shahar Kengashlarining qaroriga yoxud O‘zbekiston Respublikasi Vazirlar Mahkamasining qaroriga ko‘ra amalga oshirilishi muhimligi asoslantirilgan;

tuproq yerning unumdor qatlami va umuman qishloq xo‘jaligi mahsulotlarini yetkazib beruvchi asosiy organik moddalarni saqlovchisi ekanligini hisobga olgan holda tuproq unumdorligini ta‘minlash sohasidagi faoliyatni moliyalashtirish, tuproq unumdorligini ta‘minlash ustidan nazorat, tuproq unumdor qatlamini sidirib olish va saqlash hamda tuproq unumdorligini me‘yorlash kabi masalalarni tartibga solish zarurligi ilmiy-huquqiy jihatdan asoslantirilgan.

**Tadqiqotning amaliy natijalari** quyidagilardan iborat: O‘zbekiston Respublikasining Yer, Fuqarolik kodeksi, “Fermer xo‘jaligi to‘g‘risida”, “Dehqon xo‘jaligi to‘g‘risida”, “Qishloq xo‘jaligiga mo‘ljallanmagan yer uchastkalarini xususiylashtirish to‘g‘risida”, “Yer uchastkalarini kompensatsiya evaziga jamoat ehtiyojlari uchun olib qo‘yish tartib-taomillari to‘g‘risida”, “Tuproqni muhofaza qilish va uning unumdorligini oshirish to‘g‘risida”gi qonunlarini takomillashtirish bo‘yicha bildirilgan takliflar yer resurslarini boshqarish, yerlardan foydalanish huquqi kafolatlarini ta‘minlash, xususiylashtirish, yer uchastkalarini berish tartibini

takomillashtirish, shuningdek, yerlarni muhofaza qilishga oid qonunchilikni takomillashtirishga xizmat qilgan;

bugungi kunda dolzarb muammolardan biri – bu o‘zboshimchalik bilan yer uchastkalarining egallanishi, ularda noqonuniy qurilishlarning amalga oshirilishidir. Bunday huquqbuzarliklarning sodir etilishi davlatning yerga bo‘lgan mulk huquqi buzilishiga olib keladi hamda fuqarolar va yuridik shaxslarning yerga bo‘lgan qonuniy huquqlarini amalga oshirishga to‘sqinlik qiladi. O‘zbekiston Respublikasi Ichki ishlar vazirligi va prokuratura organlarining o‘zboshimchalik bilan qurilgan imoratlarni aniqlash hamda ularni bartaraf etishda ishtirok etishi bunday huquqbuzarliklarning oldini olish, ularni bartaraf etish samaradorligining oshishiga xizmat qilgan;

jismoniy va yuridik shaxslarga tegishincha meros qilib qoldiriladigan umrbod egalik qilish, doimiy egalik qilish, doimiy foydalanish, muddatli (vaqtincha) foydalanish yoki ijara huquqi asosida tegishli bo‘lgan yer uchastkalarini jamoat ehtiyojlari uchun olib qo‘yish faqat qonunda nazarda tutilgan kompensatsiya to‘la hajmda berilganidan keyin amalga oshirilishi asoslantirilgan;

dunyoda yer uchastkalarining 3D modellarini ishlab chiqish orqali yer egalari, mulkdorlari va ijarachilarining huquq va majburiyatlarini qayd etish afzalliklari e’tirof etilmoqda. O‘zbekiston Respublikasida ham ushbu yo‘nalishda muayyan chora-tadbirlar amalga oshirilmoqda. Bunday loyihalarni amalga oshirishning ko‘chmas mulkka bo‘lgan huquqlarni davlat ro‘yxatidan o‘tkazish jarayonini tezlashtirishi, yer uchastkalari chegaralarini belgilashda yo‘l qo‘yiladigan xatolar sonini kamaytirishi hamda yer munosabatlari sohasidagi davlat organlari faoliyatining umumiy shaffofligi va samaradorligini oshirish imkonini berishi asoslantirilgan.

**Tadqiqot natijalarining ishonchliligi.** Tadqiqot natijalari milliy qonunchilik normalari, huquqni qo‘llash amaliyoti materiallari, xalqaro va xorijiy mamlakatlarning qonunchiligi normalarining tahlil qilinganligi, rasmiy manbalar hamda ilmiy adabiyotlarga asoslanganligi, olingan xulosalar hamda takliflarning joriy yetilganligi tegishli davlat organlari tomonidan tasdiqlanganligi bilan izohlanadi.

**Tadqiqot natijalarining ilmiy va amaliy ahamiyati.** Tadqiqot natijalarining ilmiy ahamiyati qonun ijodkorligida, huquqni qo‘llash amaliyotida, yerdan foydalanish va muhofaza qilish sohasidagi qonun hujjatlarini takomillashtirish hamda ularning ilmiy-nazariy tahlili asosida olingan natijalar ushbu yo‘nalishdagi metodologik yondashuvlarni takomillashtirishda foydalanilishi bilan izohlanadi.

Tadqiqot natijalarining amaliy ahamiyati yerdan foydalanish va muhofaza qilish sohasidagi qonun hujjatlarini takomillashtirishda hamda huquqni qo‘llash amaliyotini rivojlantirishda, yerdan foydalanish va muhofaza qilish sohasidagi qonun hujjatlarini inventarizatsiyadan o‘tkazishda, shuningdek, yer resurslarini boshqarish bo‘yicha tegishli vakolatga ega idoralar va jamoatchilik asosidagi tuzilmalarning yerdan foydalanish va muhofaza qilish sohasidagi faoliyatini takomillashtirishga bag‘ishlangan qonun hujjatlarini ishlab chiqishga xizmat qiladi.

**Tadqiqot natijalarining joriy qilinishi.** Yerdan foydalanish va muhofaza qilishni huquqiy tartibga solish muammolari mavzusidagi dissertatsiya ishi bo'yicha olingan ilmiy natijalardan quyidagilarda foydalanilgan:

ijaraga berilgan yer uchastkasini yoki uning bir qismini ikkilamchi ijaraga berishning qonuniy tartibini belgilash hamda qishloq xo'jaligiga mo'ljallangan yer uchastkasini ikkilamchi ijaraga berish shartlari, muddatlari, ikkilamchi ijaraga berganlik uchun haq undirish tartibi va miqdorlarini belgilash hamda ikkilamchi ijaraga berish shartnomasini davlat ro'yxatidan o'tkazilishi haqidagi takliflardan O'zbekiston Respublikasining yer kodeksiga o'zgartish va qo'shimchalar kiritish haqida"gi O'zbekiston Respublikasining 2023-yil 23-oktyabrdagi O'RQ-871-sonli qonunining 5-moddasi 5-bandini hamda 2021-yil 21-apreldagi O'RQ-683-sonli qonunini 88-moddasi 16-bandini ishlab chiqishda foydalanilgan hamda O'zbekiston Respublikasi Yer kodeksining 24-moddasi yettinchi va 24<sup>2</sup>-moddasi beshinchi va oltinchi qismlarida o'z ifodasini topgan (O'zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasi huzuridagi Parlament tadqiqotlari instituti 2024-yil 28-martdagi 01/q-08-39-son dalolatnomasi). Ushbu takliflarning amalga oshirilishi yerdan noqonuniy foydalanishning oldini olishga va yerdan foydalanish samaradorligini oshirishga xizmat qilgan;

yer uchastkalarini kompensatsiya evaziga jamoat ehtiyojlari uchun olib qo'yishga asos bo'ladigan maqsadlar haqidagi taklif O'zbekiston Respublikasining 2022-yil 29-iyunda O'RQ-781-son "Yer uchastkalarini kompensatsiya evaziga jamoat ehtiyojlari uchun olib qo'yish tartib-taomillari to'g'risida" qonunining 4-moddasida hamda yer uchastkalarini xususiylashtirish shakllari haqidagi taklif O'zbekiston Respublikasining «Qishloq xo'jaligiga mo'ljallanmagan yer uchastkalarini xususiylashtirish to'g'risida»gi Qonunining 14-moddasida o'z ifodasini topgan (O'zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasi huzuridagi Parlament tadqiqotlari instituti 2024-yil 28-martdagi 01/q-08-39-son dalolatnomasi). Ushbu taklif yer uchastkalarini jamoat ehtiyojlari uchun olib qo'yishga asos bo'ladigan maqsadlarni hamda qishloq xo'jaligiga mo'ljallanmagan yer uchastkalarini xususiylashtirish shakllarini aniq belgilashga xizmat qilgan;

yer uchastkalaridan imorat qurish uchun foydalanish haqidagi taklifdan O'zbekiston Respublikasining Yer kodeksiga o'zgartish va qo'shimchalar kiritish haqida"gi O'zbekiston Respublikasining 2021-yil 21-apreldagi O'RQ-683-sonli qonunini 88-moddasi 18-bandini ishlab chiqishda foydalanilgan hamda O'zbekiston Respublikasi Yer kodeksining 26-moddasida o'z ifodasini topgan (O'zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasi huzuridagi Parlament tadqiqotlari instituti 2024-yil 28-martdagi 01/q-08-39-son dalolatnomasi). Ushbu taklifning amalga oshirilishi yer qonunchiligini takomillashtirishga xizmat qilgan;

o'zganing yer uchastkasidan cheklangan tarzda foydalanish huquqi (servitut) haqidagi va jamoat ehtiyojlari uchun o'zganing yer uchastkasidan cheklangan tarzda foydalanish huquqi (ommaviy servitut) belgilanishi haqidagi hamda servitut uchun haq to'lash to'g'risidagi takliflardan O'zbekiston Respublikasining yer kodeksiga o'zgartish va qo'shimchalar kiritish haqida"gi O'zbekiston Respublikasining 2023-yil 23-oktyabrdagi O'RQ-871-sonli qonunining 5-moddasi 11- va 12-bandlarini ishlab chiqishda foydalanilgan hamda

O‘zbekiston Respublikasi yer kodeksining 30-, 30<sup>5</sup>- va 30<sup>6</sup>-moddalarida o‘z ifodasini topgan (O‘zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasi huzuridagi Parlament tadqiqotlari institutining 2024-yil 28-martdagi 01/q-08-39-son dalolatnomasi). Ushbu taklif jamoat ehtiyojlari uchun o‘zganing yer uchastkasidan cheklangan tarzda foydalanish huquqi (ommaviy servitut) belgilanishiga xizmat qilgan;

yer uchastkasini jamoat ehtiyojlari uchun qayta sotib olish haqidagi taklifdan O‘zbekiston Respublikasining Yer kodeksiga o‘zgartish va qo‘shimchalar kiritish haqida”gi O‘zbekiston Respublikasining 2022-yil 29-iyundagi O‘RQ-782-sonli qonunining 5-moddasi 8-bandini ishlab chiqishda foydalanilgan hamda O‘zbekiston Respublikasi Yer kodeksining 37<sup>1</sup>-moddasida o‘z ifodasini topgan (O‘zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasi huzuridagi Parlament tadqiqotlari instituti 2024-yil 28-martdagi 01/q-08-39-son dalolatnomasi). Xalq deputatlari viloyatlar va Toshkent shahar Kengashlari yoxud Vazirlar Mahkamasiga ushbu vakolatning berilishi yer mulkdorlarining huquqlari kafolatlarini ta’minlashga xizmat qilgan;

tuproq unumdorligini ta’minlash sohasidagi faoliyatni moliyalashtirish, tuproq unumdorligini ta’minlash ustidan nazorat va tuproq unumdor qatlamini sidirib olish va saqlash hamda tuproq unumdorligini me’yorlash haqidagi takliflardan O‘zbekiston Respublikasi “Tuproqni muhofaza qilish va uning unumdorligini oshirish to‘g‘risida” qonunining 8-, 15-, 18- va 19-moddalarini ishlab chiqishda foydalanilgan (O‘zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasi huzuridagi Parlament tadqiqotlari instituti 2024-yil 23-dekabrda 3/08-262-son dalolatnomasi). Ushbu takliflar tuproq unumdorligini ta’minlash sohasidagi faoliyatni moliyalashtirish, tuproq unumdor qatlamini sidirib olish va saqlash hamda tuproq unumdorligini me’yorlash va davlat nazoratini tizimli ravishda amalga oshirilishini ta’minlashga xizmat qilgan.

**Tadqiqot natijalarining aprobatyasi.** Mazkur tadqiqot natijalari 8 ta ilmiy-amaliy anjumanda, jumladan 4 ta xalqaro, 4 ta respublika ilmiy-amaliy anjumanlarida muhokamadan o‘tkazilgan.

**Tadqiqot natijalarining e’lon qilinganligi.**

Dissertatsiya mavzusi bo‘yicha jami 30 ta ilmiy ish, jumladan, 1 ta monografiya, O‘zbekiston Respublikasi Oliy attestatsiya komissiyasining doktorlik dissertatsiyalari asosiy ilmiy natijalarini chop etish tavsiya etilgan ilmiy nashrlarda 21 ta (17 ta respublika va 4 ta xorijiy jurnallarda) maqola chop etilgan.

**Dissertatsiyaning tuzilishi va hajmi.** Dissertatsiya kirish, besh bob, xulosa, foydalanilgan adabiyotlar ro‘yxati hamda ilovalardan iborat. Dissertatsiya ishining hajmi 229 betdan iborat.

## DISSERTATSIYANING ASOSIY MAZMUNI

Dissertatsiyaning kirish qismida dissertatsiya mavzusining dolzarbligi va zarurati, tadqiqotning respublika fan va texnologiyalari rivojlanishining ustuvor yo‘nalishlariga mosligi, dissertatsiyaning mavzusi bo‘yicha xorijiy ilmiy tadqiqotlar sharhi, muammoning o‘rganilganlik darajasi, tadqiqotning dissertatsiya

bajarilgan oliy ta'lim yoki ilmiy-tadqiqot muassasasining ilmiy-tadqiqot ishlari rejaları bilan bog'liqligi, tadqiqotning maqsadi, vazifalari, obyekti, predmeti, usullari, ilmiy yangiligi, amaliy natijalari, natijalarning ishonchliligi, tadqiqot natijalarining ilmiy va amaliy ahamiyati, tadqiqot natijalarining joriy qilinishi, tadqiqot natijalarining aprobatsiyasi, tadqiqot natijalarining e'lon qilinganligi, dissertatsiyaning tuzilishi va hajmi ko'rsatib berilgan.

Dissertatsiya ishining birinchi bobi "Yerdan foydalanish va muhofaza qilishni huquqiy tartibga solishning umumiy tavsifi" deb nomlanib, unda mustaqillik yillarida yerdan foydalanish va muhofaza qilishga oid qonunchilikning rivojlanishi aloqadorligining o'ziga xos xususiyatlari hamda yerdan foydalanish va muhofaza qilishni huquqiy tartibga solishda vakolatli davlat organlari faoliyati o'ziga xos jihatlari ochib berilgan.

Ta'kidlash lozimki, yer qonunchiligi hujjatlari taraqqiyoti o'ziga xos uzoq tarixiy shakllanish va rivojlanish davrlarini bosib o'tgan. Xususan, mustaqillikka erishganimizdan so'ng mamlakatimizda yer qonunchiligining rivojlanishiga turtki bo'lgan, bunday zaruriyatni keltirib chiqargan eng asosiy obyektiv omillar sifatida uchta muhim omil ko'rsatib o'tildi: birinchidan, mamlakatda rejali iqtisodiyotga asoslangan ma'muriy-buyruqbozlik tizimidan raqobatga asoslangan erkin bozor munosabatlarini e'tirof etuvchi bozor iqtisodiyotiga o'tilganligi va shunga asosan iqtisodiyotda tarkibiy o'zgarishlarning ro'y berganligi, shu jumladan, mulk shakllarining kengayganligi va yer mulkchiligining va undan foydalanish huquqi turlarining o'zgarganligi; ikkinchidan, ijtimoiy-iqtisodiy munosabatlar rivojlanishi sari, mamlakatimizda qishloq xo'jaligida yerdan foydalanuvchi asosiy subyekt sifatida fermer xo'jaliklarining huquqiy maqomini belgilash va ularni har tomonlama qo'llab-quvvatlashga qaratilgan keng qamrovli agrar islohotlarning olib borilganligi; uchinchidan, amalda bo'lgan yer qonunchiligining izchil va to'xtovsiz rivojlanib borayotgan bozor iqtisodiyoti talablariga javob bera olmay qolganligi, shuningdek, yer-huquqiy islohotlar, yer sohasidagi davlat boshqaruvining o'zgarishi munosabati bilan sohada olib borilayotgan islohotlarni huquqiy ta'minlash zaruriyatining tug'ilganligi.

Mustaqillik yillarida yer qonunchiligining rivojlanishini shartli ravishda quyidagicha davrlashtirish taklif etildi: Birinchi bosqich, mustaqillikning ilk yillari va o'tish davrida yer munosabatlarini tartibga solishga qaratilgan qonunchilik asoslarining shakllanishi hamda mustaqil O'zbekistonda yer berish, yer ajratish bilan bog'liq masalalarni tartibga solishning huquqiy asoslari belgilab berilishi bilan tavsiflanadi hamda 1991-1998-yillarni qamrab oladi. Ikkinchi bosqich, bozor munosabatlariga o'tish sharoitida yer munosabatlarini tartibga solishning barqaror asoslarining shakllanishi, yer qonunchiligining kodifikatsiyalashuvi amalga oshirilishi, yer sohasida davlat boshqaruvining takomillashuvi, yer sohasidagi kadastr va monitoring institutlarining huquqiy asoslari ishlab chiqilganligi bilan tavsiflanadi (1998-2006-yillar). Uchinchi bosqich, yerdan foydalanishning asosiy tashkiliy-huquqiy shakli sifatida fermer xo'jaliklari faoliyatiga taalluqli, xususan, fermer xo'jaliklari faoliyati samaradorligini oshirish bilan bog'liq normativ-huquqiy hujjatlar majmui qabul qilinganligi kabi xususiyatlar bilan tavsiflanadi (2006-2017-yillar). To'rtinchi bosqich: Yangi O'zbekiston bosqichi, bozor

munosabatlariga o'tilishi tufayli yerlarni fuqarolik muomalasiga jalb etishga yo'naltirilgan, yer sohasida ipoteka va bozor munosabatlarini rivojlantirishga qaratilgan qonunchilik hujjatlari qabul qilinganligi kabi xususiyatlar bilan tavsiflanadi (2017-yildan hozirgi vaqtga qadar bo'lgan davr).

Yer munosabatlaridagi qonun hujjatlari normalarini takomillashtirish istiqbollarga oid bir necha ustuvor yo'nalishlar ajratib ko'rsatildi hamda ular bo'yicha amaldagi yer qonunchiligini takomillashtirishga oid takliflar ishlab chiqildi.

Yer sohasida davlat boshqaruviga quyidagicha mualliflik ta'rifi berildi: yer sohasida davlat boshqaruvi deganda, kompleks tashkiliy, huquqiy va iqtisodiy choralarni amalga oshirish yo'li bilan yerlardan oqilona va samarali foydalanishga, uni muhofaza qilish, qayta tiklash va tuproq qatlamining unumdorligini oshirish, insonlar uchun qulay va sog'lom bo'lgan tabiiy muhitni yaratish va saqlab qolishga, yerga egalik qilish va foydalanishga yo'naltirilgan choralar tizimi tushuniladi.

Yer sohasida davlat boshqaruvining umumiy, maxsus, tarmoq va ichki xo'jalik boshqaruvi kabi turlari farqlandi va ularning huquqiy tavsifi ochib berildi.

Tadqiqot ishining ikkinchi bobi "Yerdan foydalanish huquqining umumiy tavsifi" deb nomlanib, unda yerdan foydalanish huquqi tushunchasi va yerdan foydalanish huquqi turlari hamda yerdan foydalanish va muhofaza qilishda raqamlashtirish masalalari, yerdan foydalanishning shartnomaviy-huquqiy tartibining o'ziga xos jihatlari ochib berilgan.

Yerdan foydalanish huquqining quyidagi asosiy o'ziga xos xususiyatlari aniqlandi: 1) o'zganing yer uchastkasidan foydalanishni nazarda tutuvchi ashyoviy huquq. Yerdan xo'jalikda foydalanish maqsadli xususiyat kasb etadi va yer uchastkasining toifasiga bog'liq bo'ladi; 2) umumiy asoslardagi vorislik, shartnoma asosida boshqa shaxsga o'tkazish kabi ko'rinishda boshqa shaxslarga o'tkazish imkoniyati nazarda tutiladi; 3) yerdan foydalanishning haq evaziga amalga oshirilishi; 4) yerdan foydalanish huquqining mazmunini ochib beruvchi umumiy qoidalarni quyidagicha shakllantirish mumkin – taqdim qilingan yer uchastkasiga nisbatan qat'iy belgilangan maqsadlarda egalik qilish foydalanish va tasarruf etishga oid huquqiy layoqatlar majmuidir.

Yerdan foydalanish huquqi bir necha mezonlarga ko'ra tasniflandi: birinchidan, 1) davlatning yerdan foydalanish huquqi; 2) fuqarolarning yerdan foydalanish huquqi; 3) yuridik shaxslarning yerdan foydalanish huquqi. Yerdan foydalanish huquqi vujudga kelishining asoslari va shartlariga ko'ra 1) umumiy va 2) maxsus yerdan foydalanishga ajratiladi. O'z navbatida yerdan maxsus foydalanishni huquqi doimiy (muddatsiz) va tekin muddatli foydalanish, ijara huquqi, umrbod egalik qilish va o'zganing yer uchastkasidan cheklangan foydalanish kabi guruhlarga bo'lish mumkin.

Fermer xo'jaligi uchun yer ajratib berishning belgilangan tartibini amalga oshirishda quyidagi kamchilik va muammolar mavjudligi aniqlandi: Fermer xo'jaligi yuritish uchun chiqarilgan qarorlarda ko'rsatilgan yer maydonining o'rniga boshqa konturdagi, aksariyat hollarda sifati yomonroq bo'lgan yer uchastkasi berilganligi amaliyotda mavjud. Fermer xo'jaligining zarur hujjatlari

to'liq va lozim darajada (joylarda) rasmiylashtirilmayapti. Xattoki, ayrim holatlarda ijara shartnomalari tegishli tartibda davlat ro'yxatidan o'tkazilmaganligi ham aniqlandi. Fermer xo'jaligi faoliyatini birgalikda yuritishda qatnashayotgan, uning asosiy mehnat faoliyati joyi bo'lmagan, mehnat qobiliyatiga ega oila a'zolari va boshqa shaxslar fermer xo'jaligi a'zolari bo'lishi mumkin.

Yer uchastkalarining 3D modellarini ishlab chiqish orqali yer uchastkalari egalari (ijarachilarining) huquq va majburiyatlarini qayd etishning boshqa (hajmli) usulini talab qiladi, bu yer osti kommunikatsiyalari va boshqa obyektlarni aks ettirish, yer solig'i stavkalarini aniqroq hisoblash va h.k.

Shuni alohida ta'kidlash joizki, davlat kadastr xaritalarini ham 3D formatga aylantirish imkoniyati mavjuddir, bu esa ularning axborot qiymatini sezilarli darajada oshiradi. Shubhasiz, bu boradagi ishlarning yangi formatga o'tishi katta byudjet harajatlarini talab qiladi, ammo bu Kadastr agentligi hamda ko'chmas mulk bilan bog'liq boshqaruv funksiyalarini bajaradigan boshqa davlat organlarining barcha ma'lumotlar bazalarini olib kirishga imkon beradi. Ushbu konsepsiyaning afzalliklari shundaki, "yagona ko'chmas mulk obyekti" ni yaratish uchun zarur shart-sharoitlar, shu jumladan yerning haqiqiy yuzasi, havo va yer qa'ri yaratiladi.

O'zR Yer kodeksi 24-moddasining yettinchi bandini "Agar qonun hujjatlarida boshqacha holat nazarda tutilmagan bo'lsa, ijarachi yer uchastkalari ijara shartnomasining amal qilish muddati tugaganidan keyin shartnomani yangilashda boshqa teng sharoitlarda ustun huquqqa ega", deb bayon etish taklif etildi. Chunki "agar qonun hujjatlarida boshqacha holat nazarda tutilmagan bo'lsa" shartining kiritilishi ijaraga beruvchining ustuvor huquqini mustahkamlaydi va yer uchastkasidan vijdonan foydalanmagan yoki huquqbuzarlik yoxud kamchiliklarga yo'l qo'ygan ijaraga oluvchi bilan yer uchastkasi ijarasi shartnomasini davom ettirmaslikka huquqiy asos sifatida xizmat qiladi.

O'zR Yer kodeksining 24-moddasidagi qoidaga aniqlik kiritish, ya'ni qoidani aynan ushbu dispozitsiyaning o'zida mustahkamlash va qonunchilikni birxillashtirish maqsadida bizningcha, O'zR Yer kodeksining 24-moddasining beshinchi bandini quyidagicha shakllantirish maqsadga muvofiqdir: "Ijaraga berilgan yer uchastkalari oldi-sotdi, garov, hadya, ayirboshlash obyekti bo'lishi mumkin emas. Yer uchastkasini ijaraga olish huquqi kreditlar olish uchun garovga qo'yilishi mumkin. Ijaraga oluvchi yer uchastkasiga doir o'zining ijaraga olish huquqlarini ijaraga beruvchining rozilgisiz garovga qo'yishga faqat ijara shartnomasida nazarda tutilgan hollarda haqli".

Dissertatsiya ishining uchinchi bobi "Yerdan foydalanish huquqining vujudga kelish asoslari va tartibi" deb nomlanib, unda yerdan foydalanish huquqining vujudga kelishi tartibi hamda unda yuridik faktlarning ahamiyati va yerga bo'lgan huquqni davlat ro'yxati olishning o'ziga xos xususiyatlariga to'xtalib o'tilgan.

Yerdan foydalanish huquqining vujudga kelish asoslari va tartibi yer qonunchiligida qat'iy belgilab berilgan bo'lib, bu yerlardan o'zboshimchalik bilan egallab olmaslik va foydalanmaslikni ta'minlash uchun xizmat qiladi. Yerdan foydalanish huquqining vujudga kelishida yuridik faktlarning muhim ahamiyatga

ega. Yer huquqiga binoan yuridik faktlar deganda, bu yerdan foydalanish huquqini vujudga kelishi, o'zgarishi yoki bekor bo'lishi uchun asos bo'luvchi hamda yer qonunchiligida o'z aksini topgan muayyan holatlar hisoblanadi.

Fuqarolarning yerdan foydalanish huquqining ko'pgina masalalari Yer kodeksida aniq tartibga solinmagan. Chunonchi, Yer kodeksida fuqarolarning yerga egalik qilish shakllari, yerga nisbatan mulk huquqi, yer oldi-sotdisi, yerdan foydalanish kabi masalalar o'z yechimini topmagan.

Yer kodeksida fuqarolarning yerdan foydalanish huquqiga bag'ishlangan alohida bob kiritilishi, ushbu bobda fuqarolar yer uchastkalariga xususiy mulk huquqi asosida ega bo'lishlari, ushbu huquqning vujudga kelish (oldi-sotdi) asoslari, yerdan foydalanish shakllari va turlari alohida huquqiy normalar bilan batafsil tartibga solinishi kerakligi asoslab berildi.

Yer uchastkasiga bo'lgan huquqlarning va bunday huquqlar ishtirokidagi bitimlarning qonun hujjatlarida belgilangan tartibda davlat ro'yxatidan o'tkazishning o'ziga xos xususiyatlari sifatida quyidagilar e'tirof etildi:

Birinchidan, faqatgina yuqorida ta'kidlangan yuridik jarayonning amalga oshirilganidan so'nggina yer uchastkasiga bo'lgan huquqlar vujudga kelgan hisoblanadi.

Ikkinchidan, davlat ro'yxatidan o'tkazish ro'yxatga olingan huquq mavjudligini tasdiqlashning yagona isbotidir.

Uchinchidan, tegishli tartibda davlat ro'yxatidan o'tqazilgan yer uchastkasiga bo'lgan huquq, jumladan servitut huquqiga nisbatan faqatgina sud tartibida shikoyat bildirilishi mumkin. Bu qoida amalda qonunchilik tomonidan ko'zda tutilgan ro'yxatga olingan yer uchastkasiga bo'lgan huquqlar mustahkamligini ta'minlovchi kafolatlardan biridir.

To'rtinchidan, yer uchastkasiga bo'lgan huquqlar faqatgina ro'yxatdan o'tkazilgandan so'nggina bunday huquqni tasqdiqlovchi hujjatlarga ega bo'ladi.

Dissertatsiya ishining to'rtinchi bobi "Yerdan foydalanish huquqini cheklash, to'xtatish, bekor bo'lish asoslari va tartibi" ga bag'ishlangan bo'lib, yerdan foydalanish huquqini cheklash, to'xtatish va bekor bo'lish asoslari hamda jamoat ehtiyojlari uchun kompensatsiya evaziga yer uchastkasini olib qo'yish, qayta sotib olish yerga bo'lgan huquqni bekor bo'lish asoslarining o'ziga xos jihatlari tahlil etilgan.

Huquqlarning bekor bo'lishi va vujudga kelishi tizimi bir-biri bilan uzviy bog'liq ekanligidan kelib chiqsak, bu dastavval yer uchastkasiga bo'lgan huquqlar bilan bog'liqdir. Chunki bu huquqning har qanday bekor bo'lishi natijasida ushbu huquq, ba'zi bir vaqt uzilishi bilan bo'lsa, boshqa subyektda vujudga keladi. Aks holda, yer yuqorida ta'kidlanganidek, o'zining iqtisodiy va huquqiy qiymatini yo'qotadi. Ya'ni, yer mulkdorining mavjud bo'lmasligi salbiy iqtisodiy va ekologik oqibatlarga olib kelishi mumkin.

O'zbekiston Respublikasi Yer kodeksi 36-modda, 1-qismi birinchi bandini quyidagicha, mulk huquqidan voz kechish subyektlari aniq ko'rsatilgan holda bayon qilinishi maqsadga muvofiqligi asoslab berildi: "yuridik yoki jismoniy shaxs tomonidan yer uchastkasidan ixtiyoriy voz kechilganda".

O'zbekiston Respublikasi Fuqarolik kodeksi 191-moddasining talablaridan

kelib chiqib, O‘zbekiston Respublikasi Yer kodeksining ushbu beshinchi bandini quyidagicha bayon qilish maqsadga muvofiqligi asoslantirildi: “Yer uchastkasining egalik qiluvchisi, foydalanuvchisi, ijarachisi hamda mulkdori yer uchastkasiga bo‘lgan huquqlardan voz kechishidan yaqqol dalolat beruvchi xatti-harakatlar (chet elga jo‘nab ketganlik, yer uchastkasidan belgilanganidan ko‘proq muddat davomida foydalanmaslik) sodir etgan taqdirda, bu yer uchastkasi tegishli davlat organining yoki fuqarolar o‘zini o‘zi boshqarish organining arizasiga muvofiq, qonun hujjatlari bilan belgilangan tartibda egasiz mol-mulk tariqasida hisobga olinadi”.

Yerga bo‘lgan huquqlarni bekor qilishning majburiy asoslarini quyidagicha belgilash taklif etildi: 1) majburiyatlar bo‘yicha undiruvni mol-mulkka qaratish; 2) qonunga asosan shaxsga tegishli bo‘la olmaydigan mol-mulkning begonalashtirilishi; 3) rekvizitsiya; 4) natsionalizatsiya; 5) yer to‘g‘risidagi qonun hujjatlari buzilganda yer uchastkasining olib qo‘yilishi; 6) yer uchastkalarini kompensatsiya evaziga jamoat ehtiyojlari uchun olib qo‘yish, qayta sotib olish.

O‘zbekiston Respublikasi Yer kodeksi, Fuqarolik kodeksi va O‘zbekiston Respublikasi 2001-yil 29-avgustdagi “Sud hujjatlari va boshqa organlar hujjatlarini ijro etish to‘g‘risida”gi Qonunining talablarini unifikatsiyalashtirish maqsadida O‘zbekiston Respublikasi Yer kodeksi 36-moddasining 1-qismini quyidagicha o‘n uchinchi band bilan to‘ldirish maqsad muvofiq: “13) yer uchastkasi egasining majburiyatlari yuzasidan undiruv qonun hujjatlarida belgilangan tartibda yer uchastkasiga qaratilgan taqdirda”.

O‘zbekiston Respublikasi Yer kodeksini qonunga asosan shaxsga tegishli bo‘la olmaydigan mol-mulkning begonalashtirilishi to‘g‘risidagi norma bilan to‘ldirish, ya’ni 36<sup>1</sup>-modda kiritish taklif qilindi va uning tahriri berildi.

O‘zbekiston Respublikasi Yer kodeksida ko‘rsatilgan yerga bo‘lgan mulk huquqi bekor bo‘lishi asoslarining O‘zbekiston Respublikasi Fuqarolik kodeksida ko‘rsatilgan mulk huquqi bekor bo‘lishi asoslari bilan birxillashtirish va O‘zbekiston Respublikasi Yer kodeksini yer uchastkasi rekvizitsiyasiga oid 37<sup>2</sup>-modda va yer uchastkasi natsionalizatsiyasiga oid 37<sup>3</sup>-modda bilan to‘ldirish maqsadga muvofiqligi asoslab berildi.

O‘zbekiston Respublikasi Yer kodeksining yer to‘g‘risidagi qonun hujjatlari buzilganda yer uchastkasini olib qo‘yishga oid 38-moddasini takomillashtirish, xususan, unda yer uchastkasi egasi yoki foydalanuvchisi yer uchastkasini olib qo‘yish to‘g‘risidagi qarordan norozi bo‘lgan taqdirda yer uchastkasini olib qo‘yish to‘g‘risidagi qarorni bekor qilish haqida tegishli tartibda sudga shikoyat qilish huquqiga ega bo‘lishini mustahkamlash maqsadga muvofiq.

Natsionalizatsiya bo‘yicha quyidagicha xulosalarga kelindi: 1) natsionalizatsiya o‘zining huquqiy tabiatiga ko‘ra yuridik va jismoniy shaxslarning mulk huquqini davlat xavfsizligi, mudofaa qobiliyatini ta’minlash uchun lozim bo‘lgan darajada cheklaydi; 2) mol-mulkni natsionalizatsiya qilish faqatgina davlat manfaatlarini ko‘zlab amalga oshirilishi mumkin. Mol-mulk natsionalizatsiyasi jismoniy yoki yuridik shaxs manfaatlarini ko‘zlab amalga oshirilishi mumkin emas; 3) natsionalizatsiya faqatgina tegishli kompensatsiya, ya’ni natsionalizatsiya qilinayotgan mol-mulk qiymatini to‘lagan holda amalga oshiriladi.

Dissertatsiya ishining beshinchi bobi “Yerlarni muhofaza qilishning huquqiy holati” deb nomlanib, yerlarni muhofaza qilish va uning sifatiga oid ekologik me‘yorlashning huquqiy asoslari hamda yerlarni muhofaza qilishga oid chora-tadbirlarning yuridik mohiyati va yerdan foydalanish huquqi kafolatlarining ta‘minlanishi yerlarni muhofaza qilish asosi sifatidaga ahamiyati tadqiq etildi.

Tuproqning sifat normativlari avvalo qishloq xo‘jaligi yerlari uchun belgilanadi. Tuproqlarning holati ustidan nazoratni amalga oshirish uchun tuproqlarga yo‘l qo‘yiladigan ta‘sir darajalarini, ularning holatini, istiqbolini, ifloslantiruvchi moddalar tarkibini aniqlash, namunalarni olish va boshqa uslublarini ishlab chiqish eng ustuvor masala hisoblanadi.

Yerlarni muhofaza qilish sohasida me‘yorlar ikkita asosiy yo‘nalishga ega, birinchidan – sanoat, uy-joy qurilishi, foydali qazilmalarni qazib olish va qayta ishlash uchun hamda boshqa maqsadlarda yerlarni ajratib berishni tartibga solish yo‘li bilan yer fondidan oqilona foydalanishni ta‘minlash; ikkinchidan, insonlarning ishlab chiqarish faoliyati natijasida rekultivatsiya orqali buzilgan yerlarning holatini yaxshilash.

Yerlarni muhofaza qilishga oid huquqiy chora-tadbirlar ularni muhofaza qilish va oqilona foydalanishni ta‘minlashda muhim ahamiyatga ega. Keyingi yillarda respublikada yerlardan oqilona va samarali foydalanishni tashkil etish, ta‘sirchan nazoratni ta‘minlash hamda yer resurslari, geodeziya, kartografiya va davlat kadastri sohasidagi munosabatlarni kompleks tartibga solishga yo‘naltirilgan bir qator chora-tadbirlar amalga oshirildi.

Ayni damda biz yer sohasidagi qonun hujjatlari normalarini takomillashtirish istiqbollari o‘g‘a oid bir necha ustuvor yo‘nalishlarni ajratib ko‘rsatishni maqsadga muvofiq, deb hisoblaymiz:

Birinchidan, yer qonunchiligining yerlarning huquqiy muhofazasiga oid normalarini o‘rganish asosida ularning asosan yerlarning degradatsiya va boshqa zararli ta‘sirlardan muhofaza qilish hamda salbiy xo‘jalik ta‘siriga uchragan yerlarni qayta tiklashga qaratilganligini kuzatishimiz mumkin. Vaholanki, unda insonlar faoliyati natijasida salbiy ta‘sirga uchramagan yerlarning, ayniqsa, tabiiy kuchlar (toshqin, cho‘llanish va b.q.) salbiy ta‘siri ostida bo‘lgan yerlarning unumdorligini oshirish masalalari tartibga solinmagan. Ushbu kamchilikni bartaraf etish maqsadida Yer qonunchiligida mazkur masalalarga bag‘ishlangan hamda ularning o‘ziga xos xususiyatlarini aks ettiruvchi alohida normalar kiritilishi maqsadga muvofiq.

Ikkinchidan, hozirgi kunda yerlarning xususiylashtirilishi, yer ipotekasi borasida sezilarli ishlar amalga oshirilayotganligini hisobga olgan holda, shunday munosabatlar ob‘ekti bo‘lgan yer uchastkalarini huquqiy muhofaza qilish choralari ham qonunchilikda mustahkamlash zaruriyati tug‘ilmoqda. Shuningdek, yer bilan bog‘liq shartnomalarni tuzish, ularni amalga oshirish, ular bilan bog‘liq yuridik oqibatlarining kelib chiqishiga oid yuridik normalarning takomillashtirish maqsadga muvofiq.

Uchinchidan, yerlarni muhofaza qilishning muhim tadbirlaridan biri yerlarni rekultivatsiya qilish bo‘lib, uning huquqiy ifodasi yer qonunchiligida o‘z aksini topishi lozim. Unda, foydalanish uchun yoki ijaraga berilgan qishloq xo‘jaligi

yerlari yoxud o'rmon fondi yerlarida foydali qazilmalar konlarida qazib olish, geologik qidiruv hamda boshqa ishlarni amalga oshiruvchi tashkilotlar bu yerlarda ko'rsatilgan ishlar yakuniga yetgach, yerlarni qishloq hamda o'rmon xo'jaligida foydalanish uchun yaroqli holatga keltirish bo'yicha o'z hisoblaridan rekultivasiya qilish majburiyatini belgilash maqsadga muvofiq.

Yer-huquqiy javobgarlikni yuridik javobgarlikning mustaqil turi sifatida ajratib ko'rsatish uchun asos bo'lishi mumkin bo'lgan quyidagi o'ziga xos xususiyatlari ko'rsatib berildi: birinchidan, yer-huquqiy javobgarlik javobgarlikning an'anaviy shakllaridan o'zining mazmun-mohiyati bilan farqlanib, u yer-huquqiy normalarni buzish natijasida yerga yetkazilgan zararni bartaraf etish hamda tabiiy muhitni asl holiga qaytarishda namoyon bo'ladi; ikkinchidan, yer-huquqiy javobgarlik an'anaviy javobgarlik shakllaridan farq qiluvchi o'ziga xos maxsus ta'sir choralari bilan foydalanadi. Yer-huquqiy javobgarlik chorasi sifatida quyidagilarni ko'rsatishimiz mumkin, degan xulosaga kelish mumkin: a) yer uchastkasini olib qo'yish; b) yer uchastkasini qonuniy yerdan foydalanuvchiga qaytarish; v) yer bilan bog'liq qonunga xilof bitimlarni haqiqiy emas deb topish; g) yerning sifatini, hosildorligini tiklash bo'yicha ishlarni amalga oshirish majburiyatini yuklash.

Yer-huquqiy javobgarlikka quyidagicha ta'rif berildi: "yer-huquqiy javobgarlik deganda, yerni muhofaza qilish, shu jumladan, uni unumdorligi pasayishidan, kimyoviy va radioaktiv moddalar bilan ifloslanishdan asrash, yerdan oqilona, maqsadli va samarali foydalanishni ta'minlash, bu sohada davlat va jamiyat manfaatlarini ta'minlash, yerdan foydalanuvchilarning qonuniy huquq va manfaatlarini himoya qilishga qaratilgan yer qonunchiligi normalari bilan belgilangan yuridik ta'sir choralari majmui tushuniladi".

Ekologik jinoyatlarning moddiy tarkibini qo'llash murakkab jarayon ekanligi, ko'p hollarda ekologik jinoyatlarning real xavfli oqibatlarining kelib chiqishi belgilanishi qiyin bo'lgan uzoq muddat bilan ajralib turadi. Shu bois, O'zbekiston Respublikasi Jinoyat kodeksining 196-moddasi birinchi qismini "Yerlarni ifloslantirish yoki buzish, suv yoki atmosfera havosini ifloslantirish odamlarning ommaviy ravishda kasallanishi, hayvonlar, parrandalar yoki baliqlarning qirilib ketishi real xavfini keltirib chiqarsa", deb o'zgartirish taklif qilindi.

Shu bilan birga yer sohasidagi jinoyatlar uchun javobgarlikni takomillashtirishning yana bir yo'nalishi bu yer sohasidagi jinoyatlar uchun yetkazilgan zararni qoplash majburiyatini jazo chorasi sifatida yuklash istiqboli o'rganildi hamda ekologik jinoyatlar uchun jazoning asosiy maqsadi bo'lib, atrof tabiiy muhitga etkazilgan zararni real (naturada) qoplash bo'lishi, jazoning boshqa maqsadlari esa, qo'shimcha maqsadlar bo'lishi lozim, degan xulosaga kelindi.

Sud tomonidan yetkazilgan zararni natura shaklida qoplashning asosiy yoki qo'shimcha jazo sifatida qo'llanilishi buzilgan yerlarni tez va real qayta tiklanishiga imkon beradi. Tabiatga yetkazilgan zararni qoplash usullari yoki turlari sudning hukmida ishning aniq holatlarini hisobga olgan holda belgilanishi lozim. Bunday shakllar sifatida: yer rekultivatsiyasi, suvni tozalash ishlarini amalga oshirish, zaharlangan suv havzasini tozalash va keyinchalik baliqlar bilan

to'ldirish; yerni ifloslantirish natijasida zarar ko'rgan hayvonot yoki o'simlik dunyosi obyektlarini ko'paytirish. Shu bois, O'zbekiston Respublikasi Jinoyat kodeksining yetkazilgan zararni natura holatida qoplash majburiyatini yuklashga oid 196<sup>1</sup>-modda bilan to'ldirish taklif qilindi.

AQSh, Daniya, GFR, Ispaniya kabi bir qator davlatlarda ekologik jinoyatlar uchun yuridik shaxslarning javobgarligi belgilangan bo'lib, ushbu ijobiy tajriba O'zbekiston Respublikasining yer va jinoyat qonunchiligini takomillashtirishda foydali bo'lishi asoslantirildi.

## XULOSA

Mazkur mavzuni tadqiq etish jarayonida yerdan foydalanish va muhofaza qilishni huquqiy tartibga solishga doir quyidagicha nazariy va amaliy xulosa, taklif va tavsiyalar asoslab berildi:

### **I. Ilmiy nazariy xulosalar:**

1.1. Mustaqillik yillarida yer qonunchiligining rivojlanishi shartli ravishda uch bosqichga ajratildi va har bir bosqichning o'ziga xos xususiyatlari ochib berildi: Birinchi bosqich, mustaqillikning ilk yillari va o'tish davrida yer munosabatlarini tartibga solishga qaratilgan qonunchilik asoslarining shakllanishi hamda mustaqil O'zbekistonda yer berish, yer ajratish bilan bog'liq masalalarni tartibga solishning huquqiy manbalari belgilanishi, yerlarni muhofaza qilishning konstitutsiyaviy asoslari yaratilishi bilan tavsiflanadi hamda 1991-1998-yillarni qamrab oladi. Ikkinchi bosqich, bozor munosabatlariga o'tish sharoitida yer munosabatlarini tartibga solishning barqaror asoslarining shakllanishi, yer qonunchiligining kodifikatsiyalashuvi amalga oshirilishi, yer sohasida davlat boshqaruvining takomillashuvi, yer sohasidagi kadastr va monitoring institutlarining huquqiy asoslari ishlab chiqilganligi bilan tavsiflanadi (1998-2006-yillar). Uchinchi bosqich, yerdan foydalanishning asosiy tashkiliy-huquqiy shakli sifatida fermer xo'jaliklari faoliyatiga taalluqli, xususan, fermer xo'jaliklari faoliyati samaradorligini oshirish bilan bog'liq normativ-huquqiy hujjatlar majmui qabul qilinganligi kabi xususiyatlar bilan tavsiflanadi (2006-2017-yillar). To'rtinchi bosqich: Yangi O'zbekiston bosqichi, bozor munosabatlariga o'tilishi tufayli yerlarni fuqarolik muomalasiga jalb etishga yo'naltirilgan, yer sohasida ipoteka va bozor munosabatlarini rivojlantirishga qaratilgan qonunchilik hujjatlari qabul qilinganligi qabul qilinganligi kabi xususiyatlar bilan tavsiflanadi (2017-yildan hozirgi vaqtga qadar bo'lgan davr).

1.2. Yerdan foydalanish huquqiga quyidagicha mualliflik ta'rifi berildi: "yerdan foydalanish huquqi – yer uchastkalarini foydalanishga taqdim qilish bilan bog'liq ravishda yer huquqiy munosabatlarning subyektlari–yerdan foydalanuvchilarda vujudga keladigan huquqiy vakolatlarining majmui (subyektiv ma'noda) yoxud yerni foydalanishga taqdim etish, yerdan foydalanish huquqini vujudga keltirish, o'zgartirish va bekor qilish shartlari hamda tartibini mustahkamlovchi va tartibga soluvchi turdosh yer-huquqiy normalar majmuidir (obyektiv ma'noda)".

1.3. Yerdan foydalanish huquqining quyidagi o'ziga xos xususiyatlari aniqlandi: 1) o'zganing yer uchastkasidan foydalanishni nazarda tutuvchi ashyoviy huquq. Yerdan xo'jalikda foydalanish maqsadli xususiyat kasb etadi va yer uchastkasining toifasiga bog'liq bo'ladi; 2) umumiy asoslardagi vorislik, shartnoma asosida boshqa shaxsga o'tqazish kabi ko'rinishda boshqa shaxslarga o'tkazish imkoniyati nazarda tutiladi; 3) yerdan foydalanishning haq evaziga amalga oshirilishi; 4) yerdan foydalanish huquqining mazmunini ochib beruvchi umumiy qoidalarni quyidagicha shakllantirish mumkin – taqdim qilingan yer uchastkasiga nisbatan qat'iy belgilangan maqsadlarda egalik qilish foydalanish va tasarruf etishga oid huquqiy layoqatlar majmuidir.

1.4. Yer-huquqiy javobgarlikka quyidagicha mualliflik ta'rifi berildi: “yer-huquqiy javobgarlik deganda, yerni muhofaza qilish, shu jumladan, uni unumdorligi pasayishdan, kimyoviy va radioaktiv moddalar bilan ifloslanishdan asrash, yerdan oqilona, maqsadli va samarali foydalanishni ta'minlash, bu sohada davlat va jamiyat manfaatlarini ta'minlash, yerdan foydalanuvchilarning qonuniy huquq va manfaatlarini himoya qilishga qaratilgan yer qonunchiligi normalari bilan belgilangan yuridik ta'sir choralari majmui tushuniladi”.

1.5. Yer-huquqiy javobgarlikni yuridik javobgarlikning mustaqil turi sifatida ajratib ko'rsatish uchun asos bo'lishi mumkin bo'lgan quyidagi o'ziga xos xususiyatlari aniqlandi: birinchidan, yer-huquqiy javobgarlik javobgarlikning an'anaviy shakllaridan o'zining mazmun-mohiyati bilan farqlanib, u yer-huquqiy normalarni buzish natijasida yerga yetkazilgan zararni bartaraf etish hamda tabiiy muhitni asl holiga qaytarishda namoyon bo'ladi; ikkinchidan, yer-huquqiy javobgarlik an'anaviy javobgarlik shakllaridan farq qiluvchi o'ziga xos maxsus ta'sir choralaridan foydalanadi. Yer-huquqiy javobgarlik chorasini sifatida quyidagilarni ko'rsatishimiz mumkin: a) yer uchastkasini olib qo'yish; b) yer uchastkasini qonuniy yerdan foydalanuvchiga qaytarish; v) yer bilan bog'liq qonunga xilof bitimlarni haqiqiy emas deb topish; g) yerning sifatini, hosildorligini tiklash bo'yicha ishlarni amalga oshirish majburiyatini yuklash.

1.6. Yer sohasidagi qonun hujjatlari normalarini takomillashtirish istiqbollari o'zida bir necha ustuvor yo'nalishlar ajratib ko'rsatildi: Birinchidan, yer qonunchiligining yerlarning huquqiy muhofazasiga oid normalarini o'rganish asosida ularning asosan yerlarning degradatsiya va boshqa zararli ta'sirlardan muhofaza qilish hamda salbiy xo'jalik ta'siriga uchragan yerlarni qayta tiklashga qaratilganligini kuzatishimiz mumkin. Vaholanki, unda insonlar faoliyati natijasida salbiy ta'sirga uchramagan yerlarning, ayniqsa, tabiiy kuchlar (toshqin, cho'llanish va b.q.) salbiy ta'siri ostida bo'lgan yerlarning unumdorligini oshirish masalalari tartibga solinmagan. Ushbu kamchilikni bartaraf etish maqsadida yer kodeksida mazkur masalalarga bag'ishlangan hamda ularning o'ziga xos xususiyatlarini aks ettiruvchi alohida modda kiritilishi maqsadga muvofiq. Ikkinchidan, hozirgi kunda yerlarning xususiylashtirilishi, yer ipotekasi borasida sezilarli ishlar amalga oshirilayotganligini hisobga olgan holda, shunday munosabatlar obyekt bo'lgan yer uchastkalarini huquqiy muhofaza qilish choralari ham qonunchilikda mustahkamlash zaruriyati tug'ilmoqda. Shuningdek, yer bilan bog'liq shartnomalarni tuzish, ularni amalga oshirish, ular bilan bog'liq yuridik

oqibatlarining kelib chiqishiga oid yuridik normalarning takomillashtirish maqsadga muvofiq. Uchinchidan, tuproq yerning unumdor qatlami va umuman qishloq xo'jaligi mahsulotlarini yetkazib beruvchi asosiy organik moddalarni saqlovchisi ekanligini hisobga olgan holda Yer kodeksida tuproq unumdorligini saqlash va oshirishga bag'ishlangan alohida bob kiritilishi maqsadga muvofiq. Ushbu bob doirasida tuproq unumdorligini ta'minlashning asosiy yo'nalishlari, tuproq unumdorligini ta'minlash sohasida davlat va hududiy dasturlar, tuproq unumdorligini ta'minlash ustidan nazorat, tuproq unumdorligini me'yorlash, tuproq va agrokimyo xizmatini ko'rsatish, tuproq unumdorligini ta'minlash sohasidagi faoliyatni moliyalashtirish, tuproq unumdor qatlamini sidirib olish va saqlash kabi masalalarni tartibga solish zarur. To'rtinchidan, yerlarni muhofaza qilishning muhim tadbirlaridan biri yerlarni rekul'tivatsiya qilish bo'lib, uning huquqiy ifodasi yer qonunchiligida o'z aksini topishi lozim. Shunga muvofiq, Yer kodeksining yerlarni muhofaza qilishga oid 11-bobida yerlarni rekul'tivatsiya qilish bilan bog'liq munosabatlarni tartibga soluvchi maxsus modda kiritish zarur. Unda, foydalanish uchun yoki ijaraga berilgan qishloq xo'jaligi yerlari yoxud o'rmon fondi yerlarida foydali qazilmalar konlarida qazib olish, geologik qidiruv hamda boshqa ishlarni amalga oshiruvchi tashkilotlar bu yerlarda ko'rsatilgan ishlar yakuniga yetgach, yerlarni qishloq hamda o'rmon xo'jaligida foydalanish uchun yaroqli holatga keltirish bo'yicha o'z hisoblaridan rekul'tivatsiya qilish majburiyatini belgilash maqsadga muvofiq.

1.7. Yer sohasida davlat boshqaruviga quyidagicha mualliflik ta'rifi ishlab chiqildi: yer sohasida davlat boshqaruvi deganda, kompleks tashkiliy, huquqiy va iqtisodiy choralarni amalga oshirish yo'li bilan yerlardan oqilona va samarali foydalanishga, uni muhofaza qilish, qayta tiklash va tuproq qatlamining unumdorligini oshirish, insonlar uchun qulay va sog'lom bo'lgan tabiiy muhitni yaratish va saqlab qolishga, yerga egalik qilish va foydalanishga yo'naltirilgan choralar tizimi tushuniladi.

1.8. Yerdan foydalanish huquqi bir necha mezonlarga ko'ra tasniflandi: birinchidan, subyektiga ko'ra: 1) davlatning yerdan foydalanish huquqi; 2) fuqarolarning yerdan foydalanish huquqi; 3) yuridik shaxslarning yerdan foydalanish huquqi. Yerdan foydalanish huquqi vujudga kelishining asoslari va shartlariga ko'ra 1) umumiy 2) maxsus yerdan foydalanishga ajratiladi. O'z navbatida yerdan maxsus foydalanish huquqini doimiy, mulk huquqi, ijara huquqi va o'zganing yer uchastkasidan cheklangan foydalanish kabi guruhlarga bo'lish mumkin. Taqdim qilingan yer uchastkasidan foydalanishning maqsadiga ko'ra yerdan foydalanish – bog'dorchilik olib borish, turar va noturar joylarni qurish va ekspluatatsiya qilish, muhandislik infrastrukturasi obyektlarini joylashtirish va boshqalarga ajratilishi mumkin.

1.9. Yer uchastkasiga bo'lgan huquqlarning va bunday huquqlar ishtirokidagi bitimlarning qonun hujjatlarida belgilangan tartibda davlat ro'yxatidan o'tkazishning o'ziga xos quyidagi xususiyatlari e'tirof etildi: Birinchidan, faqatgina yuqorida ta'kidlangan yuridik jarayonning amalga oshirilganidan so'nggina yer uchastkasiga bo'lgan huquqlar vujudga kelgan hisoblanadi. Ikkinchidan, davlat ro'yxatidan o'tkazish ro'yxatga olingan huquq

mavjudligini tasdiqlashning yagona isbotidir. Uchinchi, tegishli tartibda davlat ro'yxatidan o'tkazilgan yer uchastkasiga bo'lgan huquq, jumladan servitut huquqiga nisbatan faqatgina sud tartibida shikoyat bildirilishi mumkin. Bu qoida amalda qonunchilik tomonidan ko'zda tutilgan ro'yxatga olingan yer uchastkasiga bo'lgan huquqlar mustahkamligini ta'minlovchi kafolatlardan biridir. To'rtinchidan, yer uchastkasiga bo'lgan huquqlar faqatgina ro'yxatdan o'tkazilgandan so'nggina bunday huquqni taqdiqlovchi hujjatlarga ega bo'ladi.

1.10. Yer uchastkalariga bo'lgan huquqlarning kafolatlariga quyidagicha mualliflik ta'rifi berildi: "Yer uchastkalariga bo'lgan huquqlarning kafolatlariga deganda, yer egalari, yerdan foydalanuvchilar, yer uchastkalarining ijarachilari va mulkdorlarini ularning faoliyatiga noqonuniy aralashuvdan himoya qilish, ularning buzilgan huquqlarini tiklash, ularga yetkazilgan zararni qoplash, yer uchastkasini jamoat ehtiyojlari uchun kompensatsiya evaziga olib qo'yishda ularning huquqlarini kafolatlashga, yer uchastkasiga bo'lgan huquqlarni cheklashning faqat qonunda ko'rsatilgan asos va tartibda amalga oshirilishini belgilashga qaratilgan huquqiy normalar majmui".

1.11. O'zbekiston Respublikasi Yer kodeksining yer uchastkalariga bo'lgan huquqlarning kafolatlariga oid 41-moddasini quyidagi qoida va talablar bilan rivojlantirish maqsadga muvofiqligi asoslantirildi: yer huquqlarini himoya qilish usullarini ko'rsatish; ma'muriy-hududiy va hududiy birlik chegaralarini o'zgarganda yerdan foydalanuvchilar huquqlarining kafolatlarini belgilash; yerdan foydalanuvchilarga yer uchastkalarini olib qo'yish yoki vaqtinchalik egallash, unda joylashgan ko'chmas mulk obyektlarini buzish, yer uchastkasiga bo'lgan huquqlarni cheklash, shu jumladan, yer servituti belgilanishi munosabati bilan yetkazilgan zararlarni qoplash masalalarini huquqiy jihatdan tartibga solish maqsadga muvofiq.

1.12. Yerga bo'lgan huquqlarni bekor qilishning majburiy asoslari quyidagicha tasniflandi: 1) majburiyatlar bo'yicha undiruvni mol-mulkka qaratish; 2) qonunga asosan shaxsga tegishli bo'la olmaydigan mol-mulkning begonalashtirilishi; 3) rekvizitsiya; 4) natsionalizatsiya; 5) yer to'g'risidagi qonun hujjatlari buzilganda yer uchastkasining olib qo'yilishi; 6) yer uchastkasini jamoat ehtiyojlari uchun kompensatsiya evaziga olib qo'yish, qayta sotib olish.

1.13. Yer uchastkasi natsionalizatsiyasi bo'yicha quyidagicha xulosalarga kelindi: 1) natsionalizatsiya o'zining huquqiy tabiatiga ko'ra yuridik va jismoniy shaxslarning mulk huquqini davlat xavfsizligi, mudofaa qobiliyatini ta'minlash uchun lozim bo'lgan darajada cheklaydi; 2) mol-mulkni natsionalizatsiya qilish faqatgina jamoat ehtiyojlarini ko'zlab amalga oshirilishi mumkin. Mol-mulk natsionalizatsiyasi jismoniy yoki yuridik shaxs manfaatlarini ko'zlab amalga oshirilishi mumkin emas; 3) natsionalizatsiya faqatgina tegishli kompensatsiya, ya'ni natsionalizatsiya qilinayotgan mol-mulk qiymatini to'lagan holda amalga oshiriladi.

1.14. Yer kodeksida fuqarolarning yerdan foydalanish huquqiga bag'ishlangan alohida bob kiritilishi, ushbu bobda fuqarolar yer uchastkalariga xususiy mulk huquqi asosida ega bo'lishlari, ushbu huquqning vujudga kelish (oldi-sotdi) asoslari, yerdan foydalanish shakllari va turlari alohida huquqiy

normalar bilan batafsil tartibga solinishi kerakligi asoslab berildi.

1.15. Yer sohasidagi jinoyatlar uchun javobgarlikni takomillashtirishning yana bir yo‘nalishi bu yer sohasidagi jinoyatlar uchun yetkazilgan zararni qoplash majburiyatini jazo chorasi sifatida yuklash istiqboli o‘rganildi hamda ekologik jinoyatlar uchun jazoning asosiy maqsadi bo‘lib, atrof tabiiy muhitga yetkazilgan zararni real (naturada) qoplash bo‘lishi, jazoning boshqa maqsadlari esa, qo‘shimcha maqsadlar bo‘lishi lozim, degan xulosaga kelindi.

1.16. Sud tomonidan yetkazilgan zararni natura shaklida qoplashning asosiy yoki qo‘shimcha jazo sifatida qo‘llanilishi buzilgan yerlarni tez va real qayta tiklanishiga imkon beradi. Tabiatga yetkazilgan zararni qoplash usullari yoki turlari sudning hukmida ishning aniq holatlarini hisobga olgan holda belgilanishi lozim. Bunday shakllar sifatida: yer rekul’tivatsiyasi, suvni tozalash ishlarini amalga oshirish, zaharlangan suv havzasini tozalash va keyinchalik baliqlar bilan to‘ldirish; yerni ifloslantirish natijasida zarar ko‘rgan hayvonot yoki o‘simlik dunyosi obyektlarini ko‘paytirish. Shu bois, O‘zbekiston Respublikasi Jinoyat kodeksini yetkazilgan zararni natura holatida qoplash majburiyatini yuklashga oid 196<sup>1</sup>-modda bilan to‘ldirish taklif qilindi.

1.17. AQSH, Daniya, GFR, Ispaniya kabi bir qator davlatlarda ekologik jinoyatlar uchun yuridik shaxslarning javobgarligi belgilangan bo‘lib, ushbu ijobiy tajriba O‘zbekiston Respublikasining yer va jinoyat qonunchiligini takomillashtirishda foydali bo‘lishi asoslantirildi.

## **II. Yer qonunchiligini takomillashtirishga oid taklif va tavsiyalar:**

2.1. So‘nggi yillarda olib borilgan islohotlar natijasida yer munosabatlari tubdan takomillashganligi, yer uchastkalari mulk, ijara va doimiy foydalanish huquqi asosida realizatsiya qilinayotganligi, yerdan foydalanish huquqi mazmunining yangilanganligi hamda yer ajratish va uni realizatsiya qilish jarayonida raqamlashtirishning qo‘llanilishini inobatga olgan holda yangi, to‘g‘ridan to‘g‘ri amal qiluvchi yer kodeksini ishlab chiqish maqsadga muvofiq.

2.2. O‘zbekiston Respublikasi yer kodeksi 24-moddasi 1-bandini quyidagi tahrirda berish taklif etiladi.

Qishloq xo‘jaligiga mo‘ljallangan yer uchastkalari quyidagilarga ijara huquqi asosida beriladi:

1) elektron onlayn-auksion natijalari asosida –jismoniy va yuridik shaxslarga;

2.3. O‘zbekiston Respublikasi Yer kodeksi 24-moddasida nazarda tutilgan yer uchastkasi ijarasi shartnomasining huquqiy tartibga solinishida asosan quyidagi ikki holat muhim: 1) ijara shartnomasi muddatini uzaytirish. O‘zbekiston Respublikasi Yer kodeksi 24-moddasining yettinchi bandiga muvofiq, ijarachi yer uchastkalari ijara shartnomasining amal qilish muddati tugaganidan keyin shartnomani yangilashda boshqa teng sharoitlarda ustun huquqqa ega ekanligi e‘tirof etilgan. Ushbu qoidani bizningcha, “Agar qonun hujjatlarida boshqacha holat nazarda tutilmagan bo‘lsa, ijarachi yer uchastkalari ijara shartnomasining amal qilish muddati tugaganidan keyin shartnomani yangilashda boshqa teng sharoitlarda ustun huquqqa ega” sifatida shakllantirish maqsadga muvofiq. Chunki

“agar qonun hujjatlarida boshqacha holat nazarda tutilmagan bo‘lsa” shartining kiritilishi ijaraga beruvchining ustuvor huquqini mustahkamlaydi va yer uchastkasidan vijdonan foydalanmagan yoki huquqbuzarlik yoxud kamchiliklarga yo‘l qo‘ygan ijaraga oluvchi bilan yer uchastkasi ijarasi shartnomasini davom ettirmaslikka huquqiy asos sifatida xizmat qiladi. Chunki yer uchastkasidan belgilangan maqsadlardan og‘ishib foydalangan yoki huquqbuzarlik, kamchiliklarga yo‘l qo‘ygan ijarachi ijara shartnomasini uzaytirishga haqli emas.

2.4. Ekologik jinoyatlarning moddiy tarkibini qo‘llash murakkab jarayon ekanligi ko‘p hollarda ekologik jinoyatlarning real xavfli oqibatlarining kelib chiqishi belgilanishi qiyin bo‘lgan uzoq muddat bilan ajralib turadi. Shu bois, O‘zbekiston Respublikasi Jinoyat kodeksining 196-moddasi birinchi qismini “Yerlarni ifloslantirish yoki buzish, suv yoki atmosfera havosini ifloslantirish odamlarning ommaviy ravishda kasallanishi, hayvonlar, parrandalar yoki baliqlarning qirilib ketishi real xavfini keltirib chiqarsa”, deb o‘zgartirishni taklif qilamiz.

2.5. Yer qonunchiligida ijara huquqi vujudga kelishi masalasiga alohida e‘tibor qaratilmasdan qolmoqda. O‘zbekiston Respublikasi Yer kodeksining 24-moddasida yer uchastkasi ijarasi shartnomasi davlat ro‘yxatidan o‘tkazilishi lozimligi e‘tirof etilmagan. Shu sababli O‘zbekiston Respublikasi Yer kodeksining 24-moddasiga quyidagicha o‘ninchi band qo‘shish bizningcha, maqsadga muvofiqdir: “Yer uchastkasi ijarasi shartnomasi tegishli tartibda davlat ro‘yxatidan o‘tkazilganidan so‘ng yer uchastkasidan ijara asosida foydalanish huquqi vujudga keladi”.

2.6. O‘zbekiston Respublikasi Yer kodeksining 16-moddasini 2- va 3-bandlar bilan to‘ldirish lozim:

Yuridik va jismoniy shaxslar yerdan qonunda nazarda tutilgan hamda undan oqilona foydalanish va umummilliy boyluk sifatida muhofaza qilishni ta‘minlovchi shartlar asosida va tartibda xususiy mulk huquqiga ega bo‘lishi mumkin.

Yuridik va jismoniy shaxslar xususiy yer uchastkalarini oldi-sotdi qilish, ayirboshlash, hadya qilish va garovga qo‘yish huquqiga egadirlar.

2.7. O‘zbekiston Respublikasining Yer kodeksini 41<sup>1</sup>-modda bilan to‘ldirish lozim:

41<sup>1</sup>-modda. Yer uchastkalariga bo‘lgan huquqlarning kafolatlari

Yer munosabatlari sohasida huquqiy harakatlar, iqtisodiy, tashkiliy, texnik va boshqa chora-tadbirlarni amalga oshirish;

manfaatdor shaxslarning yerdan oqilona foydalanish va muhofaza qilishga qaratilgan takliflar tayyorlashda ishtirok etishini ta‘minlash;

yer munosabatlari sohasida ekologik xavfsizlikni ta‘minlash;

qonunchilikka muvofiq belgilangan tartibda manfaatdor shaxslarni yerlar miqdori, holati, foydalanish va muhofaza qilish to‘g‘risidagi ma‘lumotlar bilan ta‘minlash.

2.8. O‘zbekiston Respublikasi Yer kodeksining 37-moddasida davlat organi qarori bilan yer uchastkasini olib qo‘yish, tegishli rozilik yoki kelishuv bo‘lmaganda amalga oshirilishi lozimligini mustahkamlash ko‘zda tutilmoqda. Bu ham har qanday holatda ham davlat organlarining avvalambor, tegishli kelishuvga

erishish uchun harakat qilish majburiyatini belgilaydi.

37-modda: “Yer uchastkasi yoki uning bir qismi kompensatsiya evaziga jamoat ehtiyojlari uchun yer egasining roziligi bilan yoki yerdan foydalanuvchi va ijarachi bilan kelishilgan holda, shuningdek bunday rozilik yoki kelishuvga erishishning imkoni bo‘lmagan taqdirda tegishincha tuman, shahar, viloyat hokimining qaroriga yoxud O‘zbekiston Respublikasi Vazirlar Mahkamasining qaroriga binoan olib qo‘yiladi”.

2.9. Fuqarolarning yerdan foydalanish huquqining ko‘pgina masalalari Yer kodeksi aniq tartibga solinmagan. Chunonchi, Yer kodeksida fuqarolarning yerga egalik qilish shakllari, yerga nisbatan mulk huquqi, yer oldi-sotdisi, yerdan foydalanish kabi masalalar o‘z yechimini topmagan. Shu sababdan, Yer kodeksida fuqarolarning yerdan foydalanish huquqiga bag‘ishlangan alohida bob kiritilishi, ushbu bobda fuqarolar yer uchastkalariga xususiy mulk huquqi asosida ega bo‘lishlari, ushbu huquqning vujudga kelish (oldi-sotdi) asoslari, yerdan foydalanish shakllari va turlari alohida huquqiy normalar bilan batafsil tartibga solinishi kerak.

2.10. O‘zbekiston Respublikasi Yer kodeksi 38-moddasining uchinchi bandini quyidagicha bayon etish taklif etiladi: “... Korxonalar, binolar va inshootlar qurish uchun yer uchastkalarini olib qo‘yishdan manfaatdor bo‘lgan korxonalar, muassasalar va tashkilotlar loyihalash boshlangunga qadar hududni kompleks rivojlantirishni ta‘minlashni inobatga olgan holda obyekt quriladigan joyni, uchastkaning taxminiy o‘lchami va uni ajratish shartlarini yer egalari, yerdan foydalanuvchilar va ijarachilar, shuningdek tegishincha tuman, shahar, viloyat hokimi yoki O‘zbekiston Respublikasi Vazirlar Mahkamasi bilan oldindan kelishib olishlari shart. Bunday tarzda oldindan kelishib olinmagunga qadar loyiha ishlarini moliyalashga yo‘l qo‘yilmaydi. Yer egalari, yerdan foydalanuvchilar va ijarachilar yer uchastkasi davlat va jamoat ehtiyojlari uchun olib qo‘yilishi haqida bunday olib qo‘yish to‘g‘risidagi tegishincha tuman, shahar, viloyat hokimi yoki O‘zbekiston Respublikasi Vazirlar Mahkamasi qarori qabul qilinishidan eng kamida olti oy oldin ogohlantiriladi”.

2.11. Yer sohasidagi jinoyatlar uchun javobgarlikni takomillashtirishning muhim yo‘nalishi sifatida yer sohasidagi jinoyatlar uchun yetkazilgan zararni qoplash majburiyatini jazo chorasi sifatida yuklash istiqboli o‘rganildi. Ekologik jinoyatlar uchun jazoning asosiy maqsadi bo‘lib, atrof tabiiy muhitga yetkazilgan zararni real (naturada) qoplash bo‘lishi, jazoning boshqa maqsadlari esa, qo‘shimcha maqsadlar bo‘lishi lozimligi asoslantirildi. Tabiatga yetkazilgan zararni qoplash usullari yoki turlari sudning hukmida ishning aniq holatlarini hisobga olgan holda belgilanishi lozim. Bunday shakllar sifatida: yer rekul’tivatsiyasi, suvni tozalash ishlarini amalga oshirish, zaharlangan suv havzasini tozalash va keyinchalik baliqlar bilan to‘ldirish; yerni ifloslantirish natijasida zarar ko‘rgan hayvonot yoki o‘simlik dunyosi obyektlarini ko‘paytirish. Sud tomonidan yetkazilgan zararni natura shaklida qoplashning asosiy yoki qo‘shimcha jazo sifatida qo‘llanilishi buzilgan yerlarni tez va real qayta tiklanishiga imkon beradi, degan xulosaga kelindi. Shu bois, O‘zbekiston Respublikasi Jinoyat kodeksining 196<sup>1</sup>-modda bilan to‘ldirish taklif qilindi: “196<sup>1</sup>-

modda. Yetkazilgan zararni natura holatida qoplash majburiyatini yuklash. Yetkazilgan zararni natura holatida qoplash majburiyatini yuklash atrof tabiiy muhit, tabiiy obyektga yetkazilgan zararni bevosita qoplash orqali amalga oshiriladi. Yetkazilgan zararni natura holatida qoplash shakli (yer rekul'tivatsiyasi, suv havzasida baliq ko'paytirish, daraxt yetishtirish va h.k.) sud tomonidan belgilanadi. Yetkazilgan zararni natura holatida qoplashning imkoni bo'lmasa, sud yetkazilgan zararni o'z mablag'lari hisobidan qoplash majburiyatini yuklashi mumkin".

### **III.Yer qonunchiligi hujjatlarini qo'llash amaliyotini takomillashtirish bo'yicha taklif va tavsiyalar:**

3.1. Mamlakatimizda yer muhofazasi sohasidagi maxsus davlat boshqaruvi bilan O'zbekiston Respublikasi Iqtisodiyot va moliya vazirligi huzuridagi Kadastr agentligi shug'ullanadi, ya'ni bu muhim sohani mustaqil vazirlik emas, balki agentlik boshqaradi. Shu sababdan, yer boyliklarini muhofaza qilishning o'ta muhimligini, bunda davlatning roli alohida ahamiyatga ega ekanligini e'tiborga oladigan bo'lsak, bu sohani agentlik bilan emas, balki yuqori maqomga ega bo'lgan mustaqil vazirlik bilan boshqarish maqsadga muvofiqdir. Aytilganlardan kelib chiqib, bizning fikrimizga ko'ra, O'zbekiston Respublikasi Iqtisodiyot va moliya vazirligi huzuridagi Kadastr agentligini mustaqil vazirlikka aylantirish va uning huquqiy maqomini belgilovchi Nizomni ishlab chiqish lozim.

3.2. Yer resurslarini muhofaza qilishda sohaviy boshqarishni takomillashtirish, bu sohada davlat boshqaruvni kuchaytirish maqsadida Qishloq xo'jaligi va Suv xo'jaligi vazirliklarida, Yer resurslari Bosh boshqarmalari tashkil etish maqsadga muvofiqdir. Shu bilan birga viloyat va tuman hokimliklarida Yer bo'limlari tashkil etish yaxshi natijalarga olib kelgan bo'lar edi.

3.3. Amaldagi qonunlarimizda yer resurslarini muhofaza qilish talablarini buzganlik uchun qo'llaniladigan yuridik javobgarlikning samaradorligi juda past darajada, hatto sud amaliyotida yer huqubuzarliklari uchun zarar miqdorini aniqlash tajribasi deyarli yo'q. Amaliyotdagi ushbu kamchiliklarni quyidagi holatlar bilan izohlash mumkin. Bular, birinchidan, qonunda yerga yetkazilgan zararga to'g'ri baho berilmaganligida; ikinchidan, zarar miqdorini aniq hisoblashning qiyinligida; uchinchidan, yer resurslari qiymatining belgilanmaganligida; va, nihoyat, to'rtinchidan ushbu zararni hisoblab chiqishning yagona tizimi ishlab chiqilamaganligidadir. Bu esa, yerni muhofaza qilishga jiddiy putur yetkazmoqda hamda bu sohada huquqbuzarliklarni yanada ko'payishiga sabab bo'lmoqda. Shuning uchun yer huqubuzarliklari uchun sudlar faoliyatini rivojlantirish, sud amaliyotini takomillashtirish hozirgi davrning asosiy vazifalaridan biridir.

3.4. Mamlakatimizda atrof tabiatni ifloslanishi yuzasidan monitoring ishlarini amalga oshirish bo'yicha mobil laboratoriyalar, zamonaviy nazorat-o'lchov asbob-uskunalari yordamida ishlar tashkil qilinmoqda. Bu borada fikrimizcha, ushbu sohada sun'iy yo'ldosh navigatsiyasi (GPS, GLONASS, GALILEO) ni ishga tushirish samarali bo'lib, ayniqsa bunda uning yordamida zararli moddalarni suvlar, atmosfera havosi va tuproqlarda mavjudligini aniqlashga

oid ma'lumotlar to'plash, turli zararli ta'sirlarni oldini olish choralarini ko'rish imkonini beradi. Mamlakatimizda sun'iy yo'ldosh orqali aloqalar, kosmik navigatsiya, kosmik tadqiqotlar hamda bu sohada ta'limni rivojlantirish muhim hisoblanib, Yerni masofadan zondlash ishlarini amalga oshirish, unda o'simlik va hayvonot dunyosi, suv va yer resurslari, atmosfera havosi hamda tabiiy hududlarning ahvoli yohud holatining aniq tasniflash yo'lga qo'yilishi lozim.

3.5. Amaliy jihatdan O'zbekiston Respublikasining "O'simliklarni himoya qilish to'g'risida"gi qonunida o'simliklarni himoya qilish vositalari yerlarning sifati, shuningdek tuproq tahliliga va boshqa tahlillarga asosan aniqlanadigan tuproq unumdorligining holatini aniqlovchi standartlashtirish faoliyatida ekologik talablar hisobga olinishi va o'simliklarni himoya qilish vositalarini qo'llash me'yorlari to'g'risida qoida belgilanishi muhim ahamiyatga egadir.

3.6. Yerlarni muhofaza qilish talablarga muvofiq yerning mo'ljallangan maqsadidan kelib chiqib, ushbu faoliyatni amalga oshirishning tabiiy sharoitlariga nisbatan yuqorida qayd etilgan talablarni aniqlashtirish hamda tizimlashtirish lozim bo'lib, bunda yerni har qanday xo'jalik faoliyatning salbiy ta'siridan himoya qilish maqsadida ekologik standartlarni ishlab chiqish zarur.

3.7. Yer uchastkalarining 3D modellarini ishlab chiqish orqali yer egalari, mulkdorlari va ijarachilarining huquq va majburiyatlarini qayd etishning boshqacha (hajmli) usulini ishlab chiqish zarur, bu yer solig'i stavkalarini aniqroq hisoblash, qolaversa, aniq va ishonchli yer rejalarini yaratish uchun 3D xaritalash texnologiyalaridan foydalanishni taqozo etadi. Bu esa ko'chmas mulkka bo'lgan huquqlarni davlat ro'yxatidan o'tkazish jarayonini tezlashtirish, yer uchastkalari chegaralarini belgilashda yo'l qo'yiladigan xatolar sonini kamaytirish hamda yer munosabatlari sohasidagi davlat organlari faoliyatining umumiy shaffofligi va samaradorligini oshirish imkonini beradi.

**SCIENTIFIC COUNCIL AWARDING OF THE SCIENTIFIC DEGREES  
DSc.07/03.06.2023.Yu.22.04 AT TASHKENT STATE UNIVERSITY OF  
LAW**

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**TASHKENT STATE UNIVERSITY OF LAW**

**BOBOKULOV SHOKNAZAR OCHILOVICH**

**THE LEGAL ISSUES OF REGULATION OF THE LAND USE AND  
PROTECTION**

12.00.06 – Natural resources law. Agrarian law. Environmental law

**Doctoral (DSc) dissertation abstract on legal scien  
ABSTRACT  
of the dissertation of the Doctor of Science on legal sciences**

## Tashkent – 2025

The theme of the doctoral dissertation (DSc) was registered at the Supreme Attestation Commission under Ministry of higher education, science and innovations of the Republic of Uzbekistan number B 2024.1.DSc/Yu290.

The dissertation is prepared at Tashkent State University of Law.

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The doctoral dissertation is available at the Information Resource Center of Tashkent State University of Law (registered under No. .), (Address 100047, Amir Temur Street, 13. Tashkent city. Phone:(998971) 233-66-36).

The abstract of the dissertation is distributed on 28<sup>th</sup> march, 2025.

(Registry protocol No. on 28<sup>th</sup> march, 2025).

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## **INTRODUCTION (abstract of DSc thesis)**

**The actuality and relevance of the dissertation theme.** The Earth is an exceptionally unique natural resource, and ecological, social, economic, and demographic conditions, as well as, to some extent, political stability, largely depend on its state. Globally, 2 billion hectares (14.9%) of agricultural land have become unsuitable<sup>1</sup>. Additionally, according to UN data, nearly 6 million hectares of land are subjected to desertification annually, with over 40% of arable land falling out of use and becoming entirely unsuitable for agriculture<sup>2</sup>. This situation threatens food production, endangers biodiversity, and exacerbates the climate crisis. In this regard, developing legislation on land use and protection, as well as the legal regulation of social relations arising in this area, are among the most pressing issues.

Leading scientific research centers and institutions worldwide have conducted numerous studies on land use and protection. Globally, the development of innovative technologies and strategies for addressing land use issues, climate change, biodiversity conservation, and environmental problems is becoming increasingly urgent. Addressing these issues requires the resolution of various matters, including: digitalization in land use and protection; ensuring guarantees for land use rights; holding legal entities and individuals accountable for environmental crimes; establishing legal conditions to achieve sustainable development through targeted impact on social activities; developing a legal framework for sustainable development in the context of economic growth; creating legislative foundations for biodiversity conservation; systematizing legislation in the field of land relations; and improving organizational and legal measures to prevent and prohibit negative impacts on land (soil). Therefore, enhancing the effectiveness of legislation in the field of land use and protection worldwide, stabilizing the system of legal documents in this area and consolidating them into a unified framework, and ensuring their implementation are of significant scientific and practical importance. This, in turn, necessitates the development of scientific conclusions and practical proposals for supplementing laws regulating land relations with new norms and further strengthening their impact.

In the New Uzbekistan, special attention is paid to the issues of land use and protection, as well as climate change. In this regard, in accordance with the

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<sup>1</sup> Center for Economic Research of Uzbekistan, [www.cer.uz](http://www.cer.uz)

<sup>2</sup> Collection of articles of the Republican scientific and practical seminar on "Sustainable management of earth resources in the context of climate change" // Tashkent – April 21, 2017. 2-3 b.

documents of international organizations such as the UN, UNESCO, FAO, Uzbekistan has implemented socio-economic, political, and environmental reforms in order to create a system of measures for the protection of land resources, their rational use, the rights and legitimate interests of landowners, owners, and land users, and to achieve the rule of law in this area. Indeed, the economic potential of the state, the material foundation of society, and the well-being of citizens largely depend on addressing tasks such as ensuring compliance with land laws, utilizing land in accordance with legal requirements, preventing violations of land legislation, and maintaining law and order in the sphere of land relations. Land is considered an invaluable natural resource<sup>1</sup>. During the implementation of economic reforms in our country, special attention has been given to further improving the mechanism for ensuring the legal protection and rational use of land resources.

Several Laws of the Republic of Uzbekistan are partially addressed in this dissertation research, including the “Land Code” (1998), Codes “On Administrative Responsibility” (1994), “Civil” (1995), “Criminal” (1994), “Urban Development” (2021), "On Farms" (1998), "On State Land Cadastre" (1998), "On the privatization of non-agricultural land plots" (2021), and "On the procedure for the seizure of land plots for public needs in return for compensation" (2022), as well as Law of the Republic of Uzbekistan "On soil protection and increasing its fertility" (2024), Presidential Decree of January 28, 2022 N UP-60 "On the New Uzbekistan Development Strategy for 2022-2026", dated June 8, 2021 “On measures to ensure equality and transparency in land relations, reliable protection of land rights and their transformation into a market asset”, Decrees of the Cabinet of Ministers of the Republic of Uzbekistan dated November 24, 2021 N 709 "On approval of regulatory legal acts on the procedure for leasing agricultural land", dated February 14, 2022 N 709 "On the privatization of non-agricultural land", “On the implementation of the Law of the Republic of Uzbekistan No. 71” and other regulations on the topic.

**The compatibility of the research on the priority areas of development of science and technologies in the country.** This research was conducted within the Republic’s I priority direction for the development of science and technology: “Formation of a system of innovative ideas and their implementation in the social, legal, economic, cultural, spiritual and educational development of an informed society and a democratic state”.

### **Review of foreign scientific research on the theme of the dissertation<sup>2</sup>.**

Legal research in the field of land use and protection is being conducted at

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<sup>1</sup> President Of The Republic Of Uzbekistan Sh.M.Mirziyoyev's speech on the topic” we will strictly continue the path of democratic reforms on the basis of the new Uzbekistan development strategy " //people's word, November 7, 2021.

<sup>2</sup> Review of foreign scientific research on the topic of the dissertation: <http://www.ox.ac.uk>; <https://www.cam.ac.uk>; <http://www.manchester.ac.uk>; <http://www.hu-berlin.de>; [www.hs-mittweida.de](http://www.hs-mittweida.de); <http://www.sorbonne-university.com>; <http://www.kyoto-u.ac.jp/en>; <https://www.useoul.edu>; <http://web.mit.edu>; <https://www.ecology.uga.edu>; <https://www.indiana.edu>; <http://www.sggw.pl>; <http://www.uu.se>; <https://www.uu.nl/en>; [www.rug.nl](http://www.rug.nl); <http://www.wfindia.org>; <http://www.mq.edu.au>; <https://www.era.int>; <https://www.ut.ee>; <https://www.k6k.ee>; <https://www.msu.ru>; [www.iseu.bsu.by](http://www.iseu.bsu.by).

higher education institutions and research centers in developed countries, including Cambridge University, Manchester University, Oxford University, Centre for Environmental Policy Imperial College London (United Kingdom), The University of Applied Sciences Mittweida, Humboldt University (Germany), The University of Sorbonne (France), National University of Seoul (South Korea), Kyoto University (Japan), Indiana University, Yale Center for Environmental Law and Policy, IUCN Academy of Environmental Law, Odum School of Ecology University of Georgia, Massachusetts Institute of Technology (USA), Warsaw University of Life Sciences (Poland), Stockholm Environmental Law and Policy Centre, Centre for Environmental Law Macquarie University (Australia), The Centre for Environmental Law (India), Tartu University, Estonian Environmental Law Centre (Estonia), Moscow State University (Russia).

As a result of worldwide research conducted in the field of land use and protection, the following scientific outcomes have been achieved: issues of liability for legal entities and individuals regarding environmental crimes have been studied by leading scholars in the field (IUCN Academy of Environmental Law, USA). Additionally, the legal conditions for achieving sustainable development through targeted influence on social activities, as well as legislation on the use and protection of land resources, have been examined by Kyoto University (Japan). The legal framework for sustainable development in the context of economic growth has been developed by the National Center for Environmental Education (Spain). The legislative basis for biodiversity conservation was developed by the National University of Seoul (South Korea), while issues of systematizing legislation in the field of land relations were addressed by the University of Tartu (Estonia). Additionally, proposals have been developed based on the study of legislation regarding criminal law protection of lands in countries such as Germany, Austria, Denmark, Spain, the USA, China, as well as the Russian Federation, Kyrgyz Republic, Tajikistan, Kazakhstan, Azerbaijan, Georgia, and Estonia. These proposals focus on various legal mechanisms for preventing and prohibiting negative impacts on land (soil) in the national legislation of these countries.

Currently, scientific research in developed countries focuses on legislative prospects for land resource protection and rational land use. These studies concentrate on legal regulation of social relations in land resource management and on preventing, mitigating, and compensating for land damage, as well as improving legislation on land use and protection.

**The extent of the study of the research problem.** During the years since independence, scientific research in our country has addressed various aspects of land use and protection.

Since independence, scientific research on various aspects of land use and protection has been conducted in our country. Specifically, certain issues concerning land use and protection, from the perspective of land law, have been explored by legal scholars such as I.J. Jalilov, U.B. Bozorov, M.B. Usmonov, Yu.A. Jurayev, J.T. Kholmominov, Sh.X. Fayziyev, Dj.I. Safarov, S.S. Hamroyev, N.K. Skripnikov, G.G. Fayzullayeva, G.Sh. Uzakova, M.M. Nurmatov, N.Sh.

Rajabov, O.X. Narzullayev, A. Abdullayev, U.T. Ayubov, R.H. Kenjayev, D.M. Umarov, Sh.R. Qobilov, M.J. Maxmadaminov and O.B. Tursunov<sup>1</sup>.

Civil-law and economic-law aspects of land use, including contractual procedures, property rights, civil liability for land-related violations, and land use by economic entities, are reflected in the works H.R. Rahmonqulov, I.B. Zokirov, R.J. Ruziyev, O. Okyulov, K.Q. Rashidov, B.B. Samarxojayev, Sh.N. Ruzinazarov, F.Y. Shodmonov, D.M. Karaxodjayeva, K. Sindarov, M.X. Baratov, V. Ergashov, I.M. Mamarayimov, N. Axmonov, and K. Kuchkinov<sup>2</sup>.

The criminal, administrative, and theoretical-legal foundations of land protection have been studied by legal scholars such as M. Rustambayev, M.A. Rajabova, F. Tohirov, M. Qodirov, A. Yakubov, R. Kabulov, H. Islomxodjayev, X. Odilqoriyev, M. Najimov, A. Li, E. Hojiyev, F. Rakhimov, and F. Samigjonov based on sectoral legislation<sup>3</sup>.

Issues of legal regulation concerning land use and protection have been studied by legal scholars from CIS countries, including O.S. Kolbasov, N.I. Krasnov, I.A. Ikoniskaya, M.M. Brinchuk, A.E. Yerenov, Y.G. Jarikov, A.A. Zabelishenskiy, B.V. Yerofeyev, O.I. Krassov, G.S. Bashmakov, A.S. Stamkulov, O.V. Nazimkina, N.V. Karlova, P.A. Dedova, N.A. Sirodoyev, L.B. Sheynin, F.X. Adixanov, Y.N. Kolotinskaya, and D.B. Goroxov<sup>4</sup>.

In the scientific works of N. Dickinson, J.A. Omotola, R. Grov-Wait, E. Vikkeri, A. Kalxan, Y. Fang, G. Vinter, K. Duner, L. Kremer, J. Nasset, N.A. Robinson, G.V. Rengeling, R. Steinberg, D. Hugues, I.O. Krasnova, and others, experiences from the European Union, the USA, Germany, and France regarding ecological (including land) legislation have been analyzed<sup>5</sup>.

Environmental scholars such as B.B. Alikhanov, Y.Sh. Shodimetov, A.N. Nigmatov, G. Abdullayeva, and N.F. Reymers have also examined certain aspects of ecological legislation and explored prospects for its improvement and codification<sup>6</sup>.

However, the works of these legal scholars do not fully and comprehensively study the issues of legal regulation of land use and protection in the context of the national legislation of the Republic of Uzbekistan, considering the current socio-economic conditions. This reflects the relevance and novelty of the subject of this research work.

### **Relation of the dissertation's theme to the scientific-research work of higher education institution where it was implemented.**

The research topic was approved at the meeting of the Scientific Council of the University of Public Security of the Republic of Uzbekistan on April 3, 2024 (protocol No. 8) and included in the university's research plan.

**The aim of the research** is to address identified issues by conducting a comprehensive analysis of legal relations relating to the improvement of the

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<sup>1</sup> Note: The works of these scientists are in the list of references.

<sup>2</sup> Note: The works of these scientists are in the list of references.

<sup>3</sup> Note: The works of these scientists are in the list of references.

<sup>4</sup> Note: The works of these scientists are in the list of references.

<sup>5</sup> Note: The works of these scientists are in the list of references.

<sup>6</sup> Note: The works of these scientists are in the list of references.

Republic of Uzbekistan's land legislation. The study examines relevant theoretical and practical aspects, proposes ways to revise associated legal norms, and seeks to enhance the effectiveness of their enforcement.

**The tasks of the research:**

Analyze the historical development of legislation on land use and protection during the years of independence, and clarify the scientific and legal basis of the competent state authorities' activities in regulating land use and protection.

Provide a theoretical and scientific foundation for the concept of land use rights, including systematizing these rights into types based on classification criteria.

Examine the contractual and legal framework governing land use and propose suggestions for its improvement, including regulations on the emergence of land use rights.

Elucidate the importance of legal facts surrounding the establishment of land use rights and analyze the state registration of land rights as the basis for the emergence of such rights.

Study the grounds for restricting, suspending, and revoking land use rights, as well as the process of land expropriation for public needs in exchange for compensation or repurchase.

Explain the legal essence of land protection measures and examine the guarantees and safeguards of land use rights as foundational to land protection.

Conduct a comparative legal analysis of foreign land legislation, particularly regarding land use and protection, and provide scientific and practical recommendations aimed at enhancing the relevant legislative framework.

**The object of the research** is legal relations related to the improvement of land legislation.

**The subject of the research** is Uzbek and foreign legislation, foreign codification practices, specialized scientific literature, and the practical application of legislation in this domain.

**Research methods.** Methods employed include observation, analysis, generalization, logic, systematization, statistical evaluation, monographic analysis, historical study, and comparative law.

**Scientific novelty of the research** include:

The legal procedures for leasing or subleasing land (in whole or in part), including conditions and timeframes for subleasing agricultural land, payment collection processes, and the requirement to register sublease agreements, are clarified.

The goals that serve as the basis for the acquisition of land plots for public needs with compensation have been scientifically substantiated, as well as forms such as the purchase of land plots by privatization entities that belong to them on the basis of the right of permanent use (ownership), lease, or inheritable lifetime ownership.

When a piece of land is sold with the right to carry out construction, the obligation to preserve the land during building activities rests with the landowner,

user, or proprietor. The justification for the privatization of non-agricultural land, based on land category and intended use, is provided.

The necessity of defining the right to limited use of another's land for public needs (public servitude), including payment, land tax (rent), and compensation for damage (lost profit) caused to landowners, users, lessees, and proprietors during the use of the servitude, is argued.

The justification of the possibility of repurchasing land owned by foreign legal entities or individuals (alongside commercial or residential buildings) for public needs, under legally guaranteed conditions and in accordance with decisions at regional (such as Tashkent city councils of people's deputies) or government levels (such as Cabinet of Ministers of the Republic of Uzbekistan), is emphasized.

Considering the fertile soil layer as the main source of organic matter sustaining agricultural production, the research scientifically and legally justifies the funding for soil fertility maintenance, supervision, removal and preservation of fertile soil, and regulation of soil fertility. Thus, regulating soil fertility is scientifically and legally grounded.

**Practical results of the research** are as follows:

Proposals to amend the Land Code, Civil Code, the laws on Farmer Farms, Peasant Farms, Privatization of Land Plots Not Intended for Agriculture, Procedures for the Requisition of Land Plots for Public Needs in Exchange for Compensation, and Soil Protection and Fertility Improvement aim to strengthen the management of land resources, clarify guarantees of land rights, streamline the allocation of land plots, and refine legislation on land protection.

An urgent issue is the illegal occupation of land plots and unauthorized construction, which infringes upon state property rights over land and obstructs lawful rights of citizens and legal entities. The involvement of the Ministry of Internal Affairs of the Republic of Uzbekistan and prosecutorial authorities in identifying and demolishing unauthorized constructions helps prevent these violations and enhances the effectiveness of remedial actions.

Land expropriation for public needs from individuals or legal entities holding land under lifelong possession, permanent possession, permanent use, temporary use (lease), or rental is permitted only after full compensation in accordance with the law.

Global recognition of 3D modeling of land plots has highlighted the benefits of accurately recording the rights and obligations of landowners, proprietors, and lessees. Uzbekistan is taking measures in this direction. The implementation of these technologies helps expedite real estate registration, reduce errors when determining plot boundaries, and foster transparency and efficiency in land administration.

**Reliability of research results.** The study is grounded in national legislation, international standards, and the experience of developed foreign countries. Additional methods include surveys, interviews, statistics-based analysis, identifying challenges in legal practice, and proposing a targeted action model, complemented by methodologically specific recommendations. The proposed

solutions have been tested and validated via relevant official documents aimed at increasing operational effectiveness.

For this investigation, the decision of the Plenary Session of the Supreme Court of the Republic of Uzbekistan dated November 20, 2023, № 28, “On Some Issues of the Application of Legislative Norms in Land Disputes in Courts,” was utilized (particularly Chapter I, Section 2, Item 1, and Chapter II, Sections 5, 6, 7). Conclusions, proposals, and recommendations were tested, with results published in leading national and international journals. Their adoption by authorized state agencies is confirmed through corresponding reports.

**The scientific and practical significance of the results of the research.** The scientific significance lies in the contribution to legislative development, legal practice, and enhancement of laws in the field of land use and protection. The results, based on their scientific and theoretical analysis, contribute to improving the methodological approaches in this area. Through theoretical analysis, the study improves methodological approaches to land law.

The practical significance of the research results lies in their application in improving the laws related to land use and protection, developing legal practice, conducting inventory of land use and protection laws, and in the development of legislation aimed at improving the activities of relevant authorities and community-based organizations in the field of land use and protection, specifically in the management of land resources.

**Implementation of the research results.** The scientific results obtained from the dissertation on the problems of legal regulation of land use and protection have been utilized in the following:

Proposals for establishing the legal procedure for secondary leasing of land plots or parts thereof, including terms, payment mechanisms, and the mandatory state registration, were used in the development of Article 5(5) of the Law of the Republic of Uzbekistan O‘RQ-871 dated October 23, 2023 and Article 88(16) of the Law of the Republic of Uzbekistan O‘RQ-683 dated April 21, 2021. These proposals are reflected in Article 24(7) and Article 24<sup>2</sup>(5–6) of the Land Code of the Republic of Uzbekistan (Protocol № 01/q-08-39 from the Institute for Parliamentary Research under the Legislative Chamber of the Oliy Majlis, dated March 28, 2024). Their implementation will prevent illegal land use and improve the efficiency of land use.

Proposals defining the purposes for requisitioning land for public needs in exchange for compensation are reflected in Article 4 of the Law of the Republic of Uzbekistan O‘RQ-781 dated June 29, 2022, “On Procedures for the Requisition of Land Plots for Public Needs in Exchange for Compensation.” Proposals related to privatizing land are reflected in Article 14 of the Law on “Privatization of Land Plots Not Intended for Agriculture,” providing clarity about expropriation for public needs and the forms of land privatization.

Proposals regarding land use for construction were used in the development of Article 88(18) of the Law of the Republic of Uzbekistan O‘RQ-683 dated April 21, 2021, and are reflected in Article 26 of the Land Code (Protocol № 01/q-08-39,

dated March 28, 2024). The implementation of this proposal will contribute to the improvement of land legislation.

Proposals for granting limited rights (servitudes) on another's land for public needs, including designation of servitudes and payment for them, were used in Articles 5, paragraphs 11 and 12 of the Law of the Republic of Uzbekistan O'RQ-871 dated October 23, 2023 and are reflected in Articles 30, 30<sup>5</sup>, and 30<sup>6</sup> of the Land Code (Protocol № 01/q-08-39, dated March 28, 2024). This proposal serves to establish the rights for limited use of another's land for public needs.

Proposals for repurchasing land for public needs are reflected in Article 5, Paragraph 8 of the Law of the Republic of Uzbekistan O'RQ-782 dated June 29, 2022, "On Procedures for the Requisition of Land Plots for Public Needs in Exchange for Compensation," and Article 37<sup>1</sup> of the Land Code of the Republic of Uzbekistan (Protocol № 01/q-08-39 of the Institute for Parliamentary Research under the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan, dated March 28, 2024). The delegation of this authority to local councils or the Cabinet of Ministers of the Republic of Uzbekistan helps to guarantee the rights of landowners.

Proposals regarding financing activities to ensure soil fertility, monitoring soil fertility, removing and preserving the fertile soil layer, and regulating soil fertility, were used in the development of Articles 8, 15, 18, and 19 of the Law of the Republic of Uzbekistan "On Soil Protection and Its Fertility Improvement." (Protocol № 3/08-262 of the Institute for Parliamentary Research under the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan, dated December 23, 2024). These proposals aim to ensure the systematic implementation of state control over activities related to soil fertility. to ensure the systematic implementation of soil fertility regulation and state control.

**Approbation of the results of the research.** The results of the research were discussed at 8 scientific and practical conferences, including 4 international and 4 national scientific and practical conferences.

**Publication of the research results.** The dissertation topic has yielded 30 scientific works: 1 monograph and 21 articles in scholarly journals (17 national, 4 foreign), which are recommended by the Higher Attestation Commission of the Republic of Uzbekistan for publication as main scientific results of doctoral dissertations.

**The structure and volume of the dissertation.** The thesis consists of an introduction, five chapters containing twelve paragraphs, a conclusion, a list of references, and appendices. The total length is 229 pages.

## THE MAIN CONTENT OF THE DISSERTATION

In the introductory part of the dissertation, the following elements are presented: the relevance and necessity of the dissertation's topic, the compliance of the research with the republic's priority directions for the development of science and technology, a review of foreign scientific research on the dissertation topic, the degree of study of the problem, the connection of the research with the research plans of the higher educational or research institution where the dissertation was

carried out, as well as the purpose, tasks, object, subject, methods, scientific novelty, practical results, reliability of results, scientific and practical significance of the research, the introduction of the research results, approbation of the research findings, publication of the research outcomes, and the structure and volume of the thesis.

The first chapter of the dissertation is entitled "The general description of the legal regulation of land use and protection." It examines the evolution of legislation on land use and protection during the years of independence, along with the activities of the competent state bodies that oversee legal regulation in this sphere

It is worth noting that the development of the republic's legislation has undergone a long historical process of formation and improvement. After independence, three critical factors were identified as the main drivers for the development of EU-related legislation in the country: First, the transition from an administrative-command system grounded in a planned economy to a free market economy based on competition, resulting in structural changes, including expansion of ownership forms and alterations in the types of land ownership and usage rights. Second, with the development of new socio-economic relations, comprehensive agrarian reforms aimed at establishing the legal status of farms, recognized as the main subject of land use in agriculture, and providing them with support. Third, the inadequacy of current land legislation to meet the requirements of a steadily evolving market economy, as well as the need to ensure legal support for reforms arising from changes in legal and public administration in the land sector.

A proposal was made to categorize the development of land legislation during the years of independence into the following stages: Stage 1 (1991–1998): Formation of a legislative framework to regulate land relations in the early years of independence and the transition period, including establishing a legal basis for the allocation of land. Stage 2 (1998–2006): Formation of a stable system for regulating land relations under market reforms, including codification of land legislation, improvement of public administration, and development of legal frameworks for cadastre and monitoring. Stage 3 (2006–2017): Adoption of a series of regulatory legal acts concerning the activities of farms, particularly improving their efficiency as the primary form of land use. Stage 4 (2017–present): The "New Uzbekistan" phase, characterized by legislative measures to bring land into civil circulation, encourage mortgage and market transactions, and further develop the land market.

Several priority areas for improving land legislation were identified, and specific proposals were developed.

A new definition of public administration in the field of land was introduced:

"Public administration in the field of land is a system of measures—organizational, legal, and economic—aimed at ensuring the rational and efficient use of land, its protection, restoration, and the increase of soil fertility, as well as the establishment and maintenance of a natural environment conducive to human well-being and ownership."

Public administration in the land sector was distinguished into general, special, network, and internal economic management, and each type's legal characteristics were clarified.

The second chapter of the research work is called "General description of land use law". It discusses the concept of land use law, the various land use rights, digitization in land use and protection, and specific aspects of contract-based land use procedures. The following key features of the land use right have been identified: 1) It is a proprietary right that allows the use of another's land plot. Farmland use will be of a targeted nature and will depend on the category of land plot. 2) It involves succession on a general basis, meaning it can be transferred to another party under a contract. 3) It stipulates the paid use of land. 4) Its general provisions can be summarized as a set of legal norms governing the ownership, use, and disposal of land earmarked for defined objectives.

Land use rights were classified based on several criteria. 1) The state's right to use land. 2) Citizens' right to use land. 3) Legal entities' right to use land. According to the grounds and conditions for existence, land use rights were divided into general and special use. In turn, special use encompasses permanent (open-ended) and temporary use, lease rights, lifetime possession, and limited use of another's land plot.

Certain shortcomings and problems were highlighted concerning the allocation of land for farming: in practice, plots allocated often differ from those stated in official decisions (with lower quality or different configurations), farm documentation is not always completed and registered properly, and in some cases, lease agreements are not properly enforced or recorded. Additionally, family members or other capable individuals who participate jointly in farming activities (though not employed full-time) can be considered farm members.

A more extensive system for recording the rights and obligations of land plot owners (or tenants) is required, especially through 3D modeling of land plots to reflect underground communications, other structures, and more precise property tax assessments.

Converting state cadastral maps into 3D format would greatly enhance their informational value. Although this transition requires significant budgetary resources, it would allow integration of all databases from the Cadastre Agency and other state bodies with real estate management functions. The advantage is creating a "single real estate object" concept, including surface, air, and subsurface dimensions.

It was proposed to amend part seven of Article 24 of the Land Code of the Republic of Uzbekistan to read:

"Unless otherwise provided by law, the lessee shall have the primary right, under equal conditions, to renew the lease agreement upon its expiration."

This phrase clarifies that the lessor's priority right is protected if the lessee misuses the land or engages in violations or misconduct.

To harmonize legislation, it was also proposed to rephrase paragraph five of Article 24 of the Land Code of the Republic of Uzbekistan as follows:

"Leased land plots shall not be the object of sale, pledge, gift, or exchange.

The right to lease may be pledged for loans. The lessee shall be entitled to pledge this lease right without the lessor's consent only in cases specified by the lease agreement."

The third chapter of the thesis is entitled "The basis and procedure for the emergence of the right to use land" discusses mechanisms for acquiring land-use rights, legal facts, and specific aspects of state registration about the right to use land.

Land legislation defines the basis and procedure for the emergence of the right to use land to prevent unauthorized occupation and usage. Legal facts play a pivotal role in establishing land-use rights: these are circumstances that create, alter, or terminate these rights and are set out in land law.

The Land Code does not explicitly address many aspects of citizens' right to land usage, including forms of ownership, the right of ownership, or buying and selling land.

It was deemed advisable to include a separate chapter on citizens' rights to land in the Land Code. Such a chapter would define private property rights to land plots, the grounds for acquiring land (purchase and sale), and the forms and types of land use.

State registration of land-related rights and transactions has the following features: 1) Rights arise only after registration, by complying with the above-mentioned legal process, is completed. 2) State registration is the only proof of a recognized right. 3) Registered land rights can be contested only in court. 4) Documents confirming these rights are only valid after proper registration.

The fourth chapter of the thesis is devoted to the "Grounds and procedure for restricting, terminating, revoking the right to use land", and covers specifics on the restriction, termination, and revocation of land use rights, as well as seizing land for public needs in exchange for compensation.

Because a system of termination and emergence of land rights is interconnected, the revocation of one party's right typically leads to a new right arising for another party, preventing negative economic or environmental impacts from having unoccupied land.

It was suggested to amend Article 36, Part 1 of the Land Code to clarify that the landowner or user may voluntarily abandon land rights. Under Article 191 of the Civil Code, it was proposed that paragraph five of the Land Code be stated as follows: "Actions clearly indicating the abandonment of a land plot (e.g., permanently leaving the country without using it for an extended period) shall be treated as unowned property, following an application by the competent state body or local self-government authority, in accordance with the law."

Mandatory grounds for the termination of land rights were proposed to include: 1) Application of levies related to liabilities. 2) Alienation of property that cannot legally be owned by a person under the law. 3) Requisition. 4) Nationalization. 5) Seizure of land plots that violate land legislation. 6) Seizure or repurchase of land plots in exchange for public need compensation. In order to unify the requirements of the Civil Code of the Republic of Uzbekistan, the Civil Code and the Law of the Republic of Uzbekistan dated August 29, 2001 "On the

execution of judicial acts and other bodies", it is expedient to supplement part 1 of Article 36 of the Civil Code of the Republic of Uzbekistan with the following thirteenth paragraph: "13) levy on the obligations of the owner of the land plot in the legislation in the event of a precinct in the prescribed manner."

It was proposed to supplement the Code of the Republic of Uzbekistan with a norm on the alienation of property that cannot be owned by a person on the basis of the law, i.e. Article 36<sup>1</sup>, and its wording was given.

It was justified to combine the grounds for the abolition of the ownership right to the land specified in the Civil Code of the Republic of Uzbekistan with the grounds for the cancellation of the property right specified in the Civil Code of the Republic of Uzbekistan and to supplement the Code of the Republic of Uzbekistan with Article 37<sup>2</sup> on the requisition of the land plot and Article 37<sup>3</sup> on the nationalization of the land plot. Regarding Article 38 of the Land Code, it was considered necessary to strengthen the right to appeal against a government decision to seize a land plot by making clear that such decisions can be contested in court.

Concerning nationalization: 1) Nationalization restricts private property rights only to the extent necessary for state security or defense. 2) It is carried out solely for public interest thus it cannot be carried out for the interests of an individual or legal entity. 3) It is permissible only with appropriate compensation.

The fifth chapter of the dissertation work is called "The legal status of land protection" and examines the legal foundation for environmental regulation of land quality, the legal nature of protective measures, and the importance of ensuring guarantees of land use as a basis for land protection.

Soil quality standards mainly apply to agricultural land. Monitoring soil conditions through sampling, analyzing, and establishing permissible limits of exposure levels to contaminants, plus other relevant measures, is critical for effective soil management thus are top priority. In land protection, norms generally serve two purposes: 1) Ensuring rational land use by regulating allocations for industry, housing, mining, and other sectors. 2) Restoring disturbed land through recultivation.

Legal measures for the protection of lands are important to ensure their preservation and rational use. In subsequent years, a number of measures were implemented in the republic, aimed at organizing the rational and effective use of land, ensuring effective control, and comprehensively regulating relations in the field of land resources, geodesy, cartography, and the state cadastre.

At present, we consider it appropriate to single out several priority areas regarding the prospects for improving legislative norms in the field of land:

Firstly, based on a study of land legislation regarding the legal protection of lands, it can be observed that it is mainly aimed at protecting lands from degradation and other harmful effects, as well as restoring lands affected by negative economic impacts. At the same time, it does not regulate issues of increasing the fertility of lands that have not been adversely affected by human activity, especially those affected by natural forces (floods, desertification, etc.). To address this shortcoming, it would be desirable to introduce separate norms into

Land Law that address these issues and reflect their specific features.

Secondly, considering that significant work is currently being carried out in the field of land privatization and land mortgage, there is a need to strengthen legislative measures for the legal protection of land plots that are subject to such relations. It is also desirable to improve legal norms regarding the conclusion and implementation of land contracts, as well as the resulting legal consequences.

Thirdly, one of the most important measures for land protection is land recultivation, which should be given legal expression in land legislation. It would be expedient to establish—in legislation—the obligation of organizations engaged in mining, geological exploration, and other work in mineral deposits on agricultural land (leased for use or leased in the forest fund) to recultivate, at their own expense, these lands upon completion of the work so that they are suitable for agriculture and forestry.

The following specific features have been highlighted, which can serve as the basis for distinguishing land-legal liability as an independent type of legal liability: First, land-legal liability differs from traditional forms of liability insofar as it involves remediating the damage caused to land as a result of violating legal norms, as well as restoring the natural environment to its original state. Second, land-legal liability uses certain specific remedial measures that differ from traditional forms of liability. These measures may include: (a) The seizure of the land plot. (b) The return of the land plot from the legal land user. (c) Invalidating illegal transactions related to land. (d) Imposing an obligation to carry out work to restore the quality and productivity of the land.

Land-legal liability is defined as follows: "Land-legal liability means a set of legal measures of legal influence established by the norms of the EU legislation aimed at protecting the land from declining productivity, pollution with chemical and radioactive substances, ensuring the rational, purposeful and effective use of the land, ensuring the interests of the state and society in this area, protecting the legitimate rights and interests of users of the land will be understood".

The fact that the application of the material composition of environmental crimes is a complex process, often having a long duration, makes it difficult in many cases to determine the origin of the real dangerous consequences of environmental crimes. In this regard, it was proposed to amend the first part of Article 196 of the Criminal Code of the Republic of Uzbekistan to read: "Pollution or destruction of land, water, or atmospheric air creates a real risk of mass illness of people or the destruction of animals, poultry, or fish".

At the same time, another area for improving liability for crimes in the field of land concerns the possibility of imposing, as a punitive measure, an obligation to compensate for damage caused by such crimes. The main objective of punishment for environmental crimes should be real (in-kind) compensation for damage to the environment, while other objectives should remain secondary.

The use of court-ordered damages in the form of in-kind restitution, whether as a primary or additional punishment, allows for a more rapid and realistic restoration of the damaged environment. The methods or forms of reparation for environmental damage should be determined by the court's judgment, taking into

account the specific circumstances of the case. Such forms include: land reclamation, water purification, cleaning of a contaminated pond followed by restocking with fish, and restoration of flora or fauna damaged by land pollution. In this regard, it was proposed to supplement the Criminal Code of the Republic of Uzbekistan with Article 196<sup>1</sup>, which enshrines the obligation to provide in-kind compensation.

In a number of countries, such as the USA, Denmark, Germany, and Spain, the responsibility of legal entities for environmental crimes has been established. It has been argued that this positive experience would be very useful in improving the criminal and land legislation of the Republic of Uzbekistan.

## **CONCLUSION**

During the study of this topic, the following theoretical and practical conclusions, proposals, and recommendations on the legal regulation of land use and protection have been supported:

### **I. Scientific theoretical conclusions:**

1.1. The development of land legislation during the years of independence was conditionally divided into three stages, and the specifics of each stage were identified: The first stage covers the early years of independence and the transition period (1991–1998), characterized by forming the legislative foundations aimed at regulating land relations, defining legal sources regarding land allocation, and protecting land. The second stage (1998–2006) was marked by establishing a sustainable framework for land regulation in the context of transitioning to market relations, conducting codification of land legislation, developing public administration in the land sector, and further developing the legal framework for cadastre and monitoring institutions in the land sector. The third stage (2006–2017) is characterized by enacting regulatory legal acts related to farming, particularly focused on improving the efficiency of farms as the main organizational and legal form of land use. The fourth stage (from 2017 to the present)—the era of “New Uzbekistan”—stems from the adoption of legislation aimed at attracting land into civil circulation and the development of mortgage and market relations in the land sector.

1.2. The author's definition of land use rights is as follows: "land use rights represent a set of legal powers (subjective sense) arising in land users - subjects of land legal relations- in connection with the provision of land plots for use, or a similar equivalent that strengthens and regulates the conditions and procedures for granting, amending and revoking land use rights (a set of norms in the objective sense)".

1.3. The following specifics of the right of land use are identified: 1) It is a material right that provides for the use of another person's land plot. Land use in agriculture has a targeted character and depends on the category of the land plot involved. 2) Succession, under general provisions, offers the possibility of transferring land use to other persons on the basis of a contract. 3) Land use requires payment. 4) The general rules revealing the essence of the right to use

land can be formulated as a set of legal competences regarding the possession, use, and disposal of the allocated land plot for strictly specified goals.

1.4. The author's definition of land legal liability is as follows: "Land legal liability means the legal measures determined by the norms of land legislation aimed at protecting land, including protecting it from declining productivity, pollution with chemical or radioactive substances, ensuring the rational, designated, and efficient use of land, safeguarding the interests of the state and society, and protecting the legitimate rights and interests of land users".

1.5. Certain features have been identified that may serve as grounds for recognizing land legal liability as an independent form of legal liability: First, in its essence land legal liability differs from traditional forms of liability as it focuses on mitigating the damage to land caused by violations of land legal norms, as well as restoring the natural environment. Second, land legal liability uses specific impact measures that differ from traditional forms of liability. Among these measures are: (a) Seizure of the land plot. (b) Return of the land plot to the legal land user. (c) Invalidating illegal land transactions. (d) Imposing the obligation to undertake work necessary for restoring the quality and fertility of the land.

1.6. Several priority areas have been identified regarding the prospects for improving the norms of legislation in the field of land:

Firstly, based on a study of land legislation regarding the legal protection of lands, it can be observed that it is mainly aimed at protecting lands from degradation and other harmful effects, as well as restoring lands affected by negative economic impacts. At the same time, it does not regulate issues of increasing the fertility of lands that have not been adversely affected by human activity, especially those affected by natural forces (floods, desertification, etc.). To address this shortcoming, it would be desirable to introduce separate norms into Land Law that address these issues and reflect their specific features. Secondly, considering that significant work is currently being carried out in the field of land privatization and land mortgage, there is a need to strengthen legislative measures for the legal protection of land plots that are subject to such relations. It is also desirable to improve legal norms regarding the conclusion and implementation of land contracts, as well as the resulting legal consequences. Thirdly, given that soil is a fertile layer of the earth and a storekeeper of the main organic matter that supplies agricultural products in general, it is desirable to include a separate chapter in the Land Code devoted to the preservation and increase of soil fertility. Within the framework of this chapter, it is necessary to regulate the main areas of soil fertility, national and regional programs in the field of soil fertility, control over soil fertility, soil fertility regulation, the provision of soil and agrochemical services, financing of activities in the field of soil fertility, draining and maintaining the soil fertile layer. Fourthly, one of the most important measures of land protection is land reclamation, the legal expression of which should be reflected in the land legislation. Accordingly, Chapter 11 of the Land Code on land protection should include a special article regulating relations related to land reclamation. Organizations engaged in mining, geological exploration and other work in mineral deposits on agricultural land leased or leased for use or on the

lands of the forest fund upon completion of the specified work on these lands are obliged to redevelop from their own accounts to bring the land suitable for agricultural and forestry use.

1.7. The author's definition of public administration in the field of land is as follows: "Public administration in the field of land is understood to be a system of measures aimed at ensuring the rational and efficient use of land through a set of complex organizational, legal, and economic measures for its protection, restoration, enhancing soil productivity, creating and maintaining a convenient and healthy natural environment for people, and regulating both land ownership and land use".

1.8. Land use rights are classified according to several criteria: firstly, by subject: 1) The state's right to use land; 2) Citizens' right to use land; 3) Legal entities' right to use land. The right to use the land is allocated for the use of 1) general 2) special land according to the grounds and conditions of its existence. In turn, the right to special use of land can be divided into such groups as permanent, property rights, rental rights, and limited use of another's land. Depending on the purpose of the use of the provided land plot, land use can be divided into gardening, construction and operation of residential and non-residential areas, placement of engineering infrastructure and others.

1.9. The following characteristics of state registration of rights to land plots and transactions involving such rights in the manner prescribed by law are recognized: First, only upon completing this legal process are rights to a land plot considered to have arisen. Second, state registration serves as the sole proof of the existence of a registered right. Third, regarding any duly registered right to a land plot, including an easement, any claim may only be lodged through judicial process. This norm is one of the legal guarantees that the law confers regarding rights to a registered land plot. Fourth, a land plot is only evidenced as belonging to any such rights after registration.

1.10. The following author's definition of guarantees of rights to land plots is proposed: "Guarantees of rights to land plots are defined as a set of legal norms intended to protect landowners, land users, leaseholders, and land plot holders from unlawful interference in their activities, to restore violations of their rights, to compensate for any damages caused to them, and to ensure their rights in cases of land plot seizure for public needs in exchange for compensation. These guarantees also aim to ensure that any restrictions on land plot rights are implemented only on the grounds and in the manner prescribed by law."

1.11. The expediency of expanding Article 41 of the Land Code of the Republic of Uzbekistan has been substantiated with the following provisions and requirements: 1) Specification of the methods of legal protection of land rights. 2) Definition of guarantees of land user rights in case of changes to administrative-territorial boundaries or subdivisions. 3) Regulation of land plot seizure or temporary withdrawal from land users, including the presence of real estate located on the land plots and any restrictions on rights to the land, including compensation for obligations arising in regard to establishing a land easement.

1.12. Mandatory grounds for terminating land rights are classified as follows:

1) Payment enforcement on liabilities to property. 2) Alienation of property that cannot be held by a person under the law. 3) Requisition. 4) Nationalization. 5) Seizure of land that is in violation of land legislation. 6) The seizure or repurchase of a land plot for public needs in exchange for compensation.

1.13. On the matter of nationalizing a land plot, the following conclusions are made: 1) From a legal standpoint, nationalization limits the property rights of individuals and legal entities to the extent necessary to ensure state security and defense capabilities. 2) Nationalization can only be performed for public needs and cannot be carried out for the interests of any specific individual or organization. 3) Nationalization is carried out only with appropriate compensation—that is, the value of the property being nationalized.

1.14. It is proposed that a separate chapter be introduced in the Land Code outlining citizens' rights to use land. This chapter should carefully regulate the private property rights of citizens with respect to land plots, including the grounds (e.g., purchase and sale) for establishing such rights and the forms and types of land use encompassed therein.

1.15. Another area for improving liability for crimes in the field of land involves studying the feasibility of imposing an obligation to compensate for damage inflicted on land as a punishment, with the main goal of punishment for environmental crimes being real (in-kind) compensation for harm done to the environment, and any additional penalties serving as secondary objectives.

1.16. Imposing compensation in kind for damage as the primary or additional penalty by court order allows for rapid and realistic restoration of damaged land. The methods or types of environmental damage reparation should be established by the court judgment, taking into account the particular circumstances of the case. This may include land reclamation, water purification, cleaning contaminated reservoirs and restocking fish, and restoring flora or fauna affected by land pollution. In this regard, it has been proposed to supplement the Criminal Code of the Republic of Uzbekistan with Article 196<sup>1</sup>, which provides for an obligation to compensate in kind for the damage caused.

1.17. In a number of countries such as the USA, Denmark, Germany, and Spain, legal entities are held responsible for environmental crimes, and it has been argued that this positive experience would be helpful in improving land and criminal legislation in the Republic of Uzbekistan.

## **II. Proposals and recommendations for improvement of land legislation:**

2.1. It is expedient to develop a new, effective Land Code that takes into account the significant improvements in land relations resulting from reforms in recent years, the realization of land plots on the basis of ownership, lease, and permanent use rights, the renewal of land use rights, and the application of digitalization in the process of land allocation and its implementation.

2.2. It is proposed to amend paragraph 1 of Article 24 of the Land Code of the Republic of Uzbekistan as follows:

“Agricultural land plots are provided on a lease basis to:

1) Individuals and legal entities, on the basis of the results of an electronic

online auction.”

2.3. In the legal regulation of the land lease agreement provided for by Article 24 of the Land Code of the Republic of Uzbekistan, the following two cases are essential: (1) Extending the lease agreement. In accordance with the seventh paragraph of Article 24 of the Land Code of the Republic of Uzbekistan, the lessee has the priority right to renew the contract upon its expiration, on equal terms. In our opinion, it would be appropriate to clarify this provision as: “Unless otherwise provided by law, the tenant has a prevailing right, on equal terms, to renew the contract upon the lease agreement’s expiration.” This is because introducing the phrase “unless otherwise provided by law” reinforces the lessor’s preferential right and serves as a legal basis for refusing to renew the land lease agreement for a tenant who has not used the land conscientiously or has committed an offense or omission. A tenant who has improperly used the land or committed an offense or omission has no right to extend the lease agreement.

2.4. The application of the material composition of environmental crimes is a complex process often distinguished by an extended timeframe throughout which it is difficult to determine the occurrence of a truly dangerous consequence of environmental crimes. Therefore, we propose to amend the first part of Article 196 of the Criminal Code of the Republic of Uzbekistan to read:

“Pollution or deformation of land, water, or atmospheric air that poses a real threat of mass morbidity of people or the death of animals, poultry, or fish”.

2.5. Special attention has not been paid to the issue of how leasehold rights arise under land legislation. Article 24 of the Land Code of the Republic of Uzbekistan does not require state registration of a land lease agreement. Therefore, in our opinion, it is expedient to add a tenth paragraph to Article 24 of the Land Code of the Republic of Uzbekistan as follows:

“The right to lease a land plot arises only after the land lease agreement is duly registered”.

2.6. Article 16 of the Land Code of the Republic of Uzbekistan should be supplemented with paragraphs 2 and 3 as follows:

“Legal entities and individuals may enjoy private property rights on the basis and in the manner established by law, under conditions that ensure the rational use of land and its protection as a national asset.

Legal entities and individuals have the right to purchase, sell, exchange, donate, and mortgage privately owned land plots.”

2.7. The Land Code of the Republic of Uzbekistan must be supplemented with Article 41<sup>1</sup> as follows: “Article 41<sup>1</sup>. Guarantees of rights to land plots:

Implementation of legal, economic, organizational, technical, and other measures in the field of land relations;

Ensuring the participation of interested parties in the preparation of proposals aimed at the rational use and protection of land;

Ensuring environmental safety in the field of land relations;

Providing interested persons with information on the quantity, condition, use, and protection of land in accordance with the prescribed procedures by law.”

2.8. Article 37 of the Land Code of the Republic of Uzbekistan provides for

the expropriation of a land plot by a decision of a state body, which must be carried out without the necessary consent or agreement, but it also establishes the obligation of public authorities to strive, first and foremost, to reach an appropriate consensus.

Article 37: “A land plot or part thereof shall be seized for public needs, with compensation, upon the landowner’s consent or in agreement with a land user or tenant. If it is impossible to reach such consent or agreement, it is done by the decision of the mayor of the district, city, or region, or by the decision of the Cabinet of Ministers of the Republic of Uzbekistan, respectively.”

2.9. Many issues concerning citizens’ rights to use land are not clearly regulated in the Land Code. For this reason, it is necessary to include a separate chapter in the Land Code devoted to citizens’ rights to use land. This chapter should detail citizens’ rights to land based on private property, the basis for the emergence of this right (purchase and sale), as well as the forms and types of land use under separate legal norms.

2.10. It is proposed to outline the third paragraph of Article 38 of the Land Code of the Republic of Uzbekistan as follows:

“... Enterprises, institutions, and organizations interested in the expropriation of land plots for the construction of enterprises, buildings, and structures must, before starting to design the facility, coordinate the approximate size of the plot and the conditions for its allocation with the landowners, land users, and tenants, as well as with the mayor of the district, city, or region, or with the Cabinet of Ministers of the Republic of Uzbekistan, respectively. Financing for project work is not permitted before a preliminary agreement is reached. Landowners, land users, and tenants shall be notified of the expropriation of land for state and public needs at least six months prior to the decision of the mayor of the district, city, region, or the Cabinet of Ministers of the Republic of Uzbekistan regarding such expropriation.”

2.11. An important area for improving responsibility for land crimes is the possibility of imposing an obligation to compensate for damage caused by such crimes. It is argued that the primary purpose of punishment for environmental crimes should be the real (in-kind) restoration of damage to the environment, while other purposes of punishment are secondary. The methods or types of compensation for damage caused to nature should be determined in the court’s decision, taking into account the specific circumstances of each case. Such forms could include land reclamation, water treatment, cleaning of contaminated ponds followed by fish stocking, or the restoration of flora or fauna affected by land pollution. It is concluded that the court’s application of in-kind damage compensation as a principal or additional punishment allows for more rapid and practical restoration of damaged land. Therefore, it is proposed to supplement Article 196 of the Criminal Code of the Republic of Uzbekistan with Article 196<sup>1</sup> as follows:

“Article 196<sup>1</sup>. Imposition of an obligation to make in-kind compensation for damage caused. The obligation to compensate for damage to nature is fulfilled by directly restoring the natural environment or natural entity that was harmed. The

form of in-kind compensation (land reclamation, fish breeding in a pond, tree cultivation, etc.) is determined by the court. If it is not possible to compensate for the damage in kind, the court may impose an obligation to compensate the damage financially.”

### **III. Proposals and recommendations to improve the practice of applying land legislation:**

3.1. In our country, special public administration in the field of land protection is carried out by the Cadastre Agency under the Ministry of Economy and Finance of the Republic of Uzbekistan. That is, this important area is managed not by an independent ministry, but by an agency. Considering the critical importance of protecting land resources, in which the state’s role is of special significance, it seems expedient to manage this sphere through an independent ministry of higher status rather than through an agency. Therefore, in our opinion, the Cadastre Agency under the Ministry of Economy and Finance of the Republic of Uzbekistan should be transformed into an independent ministry and a regulation defining its legal status should be developed.

3.2. In order to improve sectoral management in the field of land protection and to strengthen public administration in this area, it is advisable to establish Main Departments of Land Resources in the Ministries of Agriculture and Water Resources. Simultaneously, the establishment of land departments in regional and district khokimiyats would yield beneficial results.

3.3. In our current laws, the effectiveness of legal liability for violating land protection requirements is very low. Even in court practice, there is almost no experience in determining the amount of damage for violations of land rights. These practical shortcomings can be explained by the following reasons: (1) The law does not provide an adequate assessment of the damage to land. (2) It is difficult to calculate the exact amount of damage. (3) The value of land resources is not precisely determined. (4) A unified system for calculating such damage has not yet been developed. These factors seriously undermine land protection efforts, leading to an increase in violations in this area. Therefore, one of the main tasks of the modern era is the expansion of court activities regarding land rights and the improvement of judicial practice.

3.4. In our country, efforts to monitor environmental pollution are underway using mobile laboratories equipped with modern control and measuring instruments. We believe that the use of satellite navigation (GPS, GLONASS, GALILEO) would be particularly effective in this area: it would allow for the collection of data needed to determine the presence of harmful substances in water, atmospheric air, and soil, and facilitate preventive measures to curb various harmful effects. It is important to develop satellite communications, space navigation, and space research in our country, as well as education in this sphere, to carry out remote sensing of the Earth. As part of these efforts, an accurate classification of flora and fauna, water and land resources, atmospheric air, and natural areas should be created.

3.5. In practical terms, with respect to the Law of the Republic of Uzbekistan

“On Plant Protection,” it is essential that environmental requirements be taken into account in standardization activities related to determining soil fertility through soil analysis and other assessments.

3.6. In accordance with land protection requirements and based on the intended use of each land plot, it is necessary to clarify and systematize above mentioned requirements in line with local natural conditions, while also developing environmental standards to protect land from the negative effects of any economic activity.

3.7. It is necessary to develop a more detailed (large-scale) method of recording the rights and obligations of landowners, property owners, and tenants by using 3D models of land plots. This approach allows for more accurate calculation of land tax rates and the application of 3D mapping technologies in creating precise and reliable land plans. This would speed up the state registration of real estate rights, reduce errors in determining land boundaries, and increase overall transparency and efficiency among government agencies involved in land relations.

**НАУЧНЫЙ СОВЕТ DSc.07/03.06.2023.Yu.22.04 ПО ПРИСУЖДЕНИЮ  
УЧЁНЫХ СТЕПЕНЕЙ ПРИ ТАШКЕНТСКОМ ГОСУДАРСТВЕННОМ  
ЮРИДИЧЕСКОМ УНИВЕРСИТЕТЕ**

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**ТАШКЕНТСКИЙ ГОСУДАРСТВЕННЫЙ ЮРИДИЧЕСКИЙ  
УНИВЕРСИТЕТ**

**БОБОКУЛОВ ШОХНАЗАР ОЧИЛОВИЧ**

**ПРОБЛЕМЫ ПРАВОВОГО РЕГУЛИРОВАНИЯ ИСПОЛЬЗОВАНИЯ И  
ОХРАНЫ ЗЕМЕЛЬ**

12.00.06. – Право природных ресурсов. Аграрное право. Экологическое право

**АВТОРЕФЕРАТ**  
диссертации доктора юридических наук (DSc)

**г. Ташкент – 2025**

**Тема докторский диссертации (DSc) зарегистрирована Высшей аттестационной комиссией при Министерстве высшего образования, науки и инноваций под номером В 2024.1.DSc/Yu290.**

Диссертация выполнена в университете общественной безопасности Республики Узбекистан.

Автореферат диссертации размещен на трёх языках (узбекском, английском, русском (резюме)) на веб-странице Научного совета (<https://tsul.uz/uz/fan/avtoreferatlar>) и Информационно-образовательном портале «ZiyoNET» ([www.ziyo.net.uz](http://www.ziyo.net.uz)).

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Академия МВД Республики Узбекистан

Защита диссертации состоится 12 апреля 2025 года в 10:00 часов на заседании Научного совета DSc.07/03.06.2023.Yu.22.04 при Ташкентском государственном юридическом университете (Адрес: 100047, г. Ташкент, ул. Сайилгох, 35. Тел.: (99871) 233-66-36; факс: (99871) 233-37-48, e-mail: [info@tsul.uz](mailto:info@tsul.uz)).

С диссертацией можно ознакомиться в Информационно-ресурсном центре Ташкентского государственного юридического университета (зарегистрирована за № ). (Адрес: 100047, г. Ташкент, ул. А.Темура, 13. Тел.: (998) 71-233-66-36).

Автореферат диссертации разослан 28 марта 2025 года.

(протокол реестра № от 28 марта 2025 года).

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## **ВВЕДЕНИЕ (Аннотация докторской диссертации)**

**Целью исследования** является комплексный анализ правоотношений, связанных с совершенствованием земельного законодательства Республики Узбекистан, поиск решений проблем, выявленных на основе изучения теоретических и практических аспектов, поиск путей совершенствования соответствующих норм законодательства в этой сфере и повышения эффективности практики его применения.

**Объектом исследования** являются правоотношения, связанные с совершенствованием земельного законодательства.

**Научная новизна исследования** состоит в следующем:

обоснована необходимость установления законного порядка предоставления в субаренду земельного участка или его части, предоставленного в аренду, а также определения условий, сроков, порядка и размеров взимания платы за предоставление в субаренду земельного участка сельскохозяйственного назначения, и обязательной государственной регистрации договора субаренды;

научно обоснованы цели, являющиеся основанием для изъятия с компенсацией земельных участков для общественных нужд, а также такие формы, как приобретение субъектами приватизации земельных участков, принадлежащих им на праве постоянного пользования (владения), аренды или пожизненного наследуемого владения;

обосновано, что при реализации земельного участка с правом осуществления строительных работ обязанность по содержанию земельного участка в процессе строительства зданий, сооружений и конструкций возлагается на владельца, пользователя и собственника земельного участка, а также обоснована приватизация земельных участков несельскохозяйственного назначения в зависимости от категории и цели;

обоснована необходимость установления права ограниченного пользования чужим земельным участком для общественных нужд (публичный сервитут), платы за сервитут, определения суммы земельного налога (арендной платы) за земельный участок, обремененный сервитутом, а также компенсации ущерба (упущенной выгоды), причиненного землевладельцам, землепользователям, арендаторам и собственникам земельных участков в процессе использования сервитута;

обоснована важность выкупа земельного участка, находящегося в собственности иностранных юридических и физических лиц, вместе с объектом торговли и сферы обслуживания либо жилым и иным зданием или частью здания для общественных нужд по решению Советов народных депутатов областей и города Ташкента либо по решению Кабинета Министров Республики Узбекистан с обеспечением предусмотренных законодательством гарантий;

учитывая, что почва является хранителем плодородного слоя земли и основных органических веществ, обеспечивающих производство сельскохозяйственной продукции в целом, научно и юридически обоснована

необходимость регулирования таких вопросов, как финансирование деятельности в области обеспечения плодородия почв, контроль за обеспечением плодородия почв, снятие и сохранение плодородного слоя почв и нормирование.

**Внедрение результатов исследования.** Результаты исследования были использованы следующим образом:

предложения по определению законного порядка предоставления в субаренду земельного участка или его части, а также определению условий, сроков, порядка и размеров взимания платы за предоставление в субаренду земельного участка сельскохозяйственного назначения, а также государственной регистрации договора субаренды были использованы при разработке пункта 5 статьи 5 Закона Республики Узбекистан от 23 октября 2023 года ЗРУ-871 "О внесении изменений и дополнений в Земельный кодекс Республики Узбекистан" и пункта 16 статьи 88 Закона Республики Узбекистан от 21 апреля 2021 года. Эти предложения отражены в частях седьмой статьи 24 и пятой и шестой статьи 24<sup>2</sup> Земельного кодекса Республики Узбекистан (Акт Института парламентских исследований при Законодательной палате Олий Мажлиса Республики Узбекистан от 28 марта 2024 года 01/q-08-39). Реализация данных предложений послужит предотвращению незаконного землепользования и повышению эффективности землепользования;

предложение о целях, являющихся основанием для изъятия земельных участков для общественных нужд с компенсацией, отражено в статье 4 Закона Республики Узбекистан от 29 июня 2022 года No ЗРУ-781 "О процедурах изъятия земельных участков для общественных нужд с компенсацией," а также предложение о формах приватизации земельных участков - в статье 14 Закона Республики Узбекистан "О приватизации земельных участков несельскохозяйственного назначения" (Акт Института парламентских исследований при Законодательной палате Олий Мажлиса Республики Узбекистан от 28 марта 2024 года 01/q-08-39). Данное предложение послужило четкому определению целей и форм приватизации, являющихся основанием для изъятия;

предложение об использовании земельных участков для строительства зданий использовано при разработке пункта 18 статьи 88 Закона Республики Узбекистан от 21 апреля 2021 года ЗРУ-683 "О внесении изменений и дополнений в Земельный кодекс Республики Узбекистан." Данное предложение отражено в статье 26 Земельного кодекса Республики Узбекистан (Акт Института парламентских исследований при Законодательной палате Олий Мажлиса Республики Узбекистан от 28 марта 2024 года 01/q-08-39). Реализация данного предложения послужит совершенствованию земельного законодательства;

предложения о праве ограниченного пользования чужим земельным участком (сервитут) и об установлении права ограниченного пользования чужим земельным участком для общественных нужд (публичный сервитут) и об оплате сервитута были использованы при разработке пунктов 11 и 12

статьи 5 Закона Республики Узбекистан от 23 октября 2023 года ЗРУ-871 "О внесении изменений и дополнений в Земельный кодекс Республики Узбекистан." Эти предложения отражены в статьях 30, 30<sup>5</sup> и 30<sup>6</sup> Земельного кодекса Республики Узбекистан (Акт Института парламентских исследований при Законодательной палате Олий Мажлиса Республики Узбекистан от 28 марта 2024 года 01/q-08-39). Данное предложение послужит установлению права ограниченного пользования чужим земельным участком для общественных нужд (публичный сервитут);

предложение о выкупе земельного участка для общественных нужд было использовано при разработке пункта 8 статьи 5 Закона Республики Узбекистан от 29 июня 2022 года ЗРУ-782 "О внесении изменений и дополнений в Земельный кодекс Республики Узбекистан." Данное предложение отражено в статье 37<sup>1</sup> Земельного кодекса Республики Узбекистан (Акт Института парламентских исследований при Законодательной палате Олий Мажлиса Республики Узбекистан от 28 марта 2024 года 01/q-08-39) Предоставление данного полномочия Кенгашам народных депутатов областей и города Ташкента либо Кабинету Министров служит обеспечению гарантий прав землевладельцев;

предложения по финансированию деятельности в области обеспечения плодородия почв, контролю за обеспечением плодородия почв и снятию и сохранению плодородного слоя почв, а также нормированию плодородия почв были использованы при разработке статей 8, 15, 18 и 19 Закона Республики Узбекистан "Об охране почв и повышении их плодородия." (Акт Института парламентских исследований при Законодательной палате Олий Мажлиса Республики Узбекистан 3/08- 262 от 23 декабря 2024 года). Данные предложения послужат финансированию деятельности в области обеспечения плодородия почв, снятию и сохранению плодородного слоя почв, а также обеспечению систематического осуществления государственного контроля и нормирования плодородия почв.

**Структура и объем диссертации.** Диссертация состоит из введения, пяти глав, включающих двенадцать параграфов, заключения, списка использованной литературы и приложений. Объем диссертации составляет 229 страниц.

**E'LON QILINGAN ISHLAR RO'YXATI**  
**СПИСОК ОПУБЛИКОВАННЫХ РАБОТ**  
**LIST OF PUBLISHED WORKS**

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