TOSHKENT DAVLAT YURIDIK UNIVERSITETI HUZURIDAGI ILMIY DARAJALAR BERUVCHI DSc.07/30.12.2019.Yu.22.01 RAQAMLI ILMIY KENGASH

TOSHKENT DAVLAT YURIDIK UNIVERSITETI

KORYOG‘DIYEV BOBUR UMIDJON O‘G‘LI

TASVIRGA BO‘LGAN HUQUQNI FUQAROLIK – HUQUQIY TARTIBGA SOLISHNI TAKOMILLASHTIRISH

12.00.03 – Fuqarolik huquqi. Tadbirkorlik huquqi.
Oila huquqi. Xalqaro xususiy huquq

Yuridik fanlar bo‘yicha falsafa doktori (Doctor of Philosophy) dissertatsiyasi AVTOREFERATI

Toshkent – 2025

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Falsafa doktori (PhD) dissertatsiya mavzusi O‘zbekiston Respublikasi Oliy ta’lim, fan va innovatsiyalar vazirligi huzuridagi Oliy attestatsiya komissiyasida B2025.2.PhD/Yu1921-raqam bilan ro‘yxatga olingan.

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KIRISH (falsafa doktori (PhD) dissertatsiyasi annotatsiyasi)

Dissertatsiya mavzusining dolzarbligi va zarurati. Dunyoda so‘nggi o‘n yillikda kompyuterlar va boshqa qurilmalar, aloqa vositalari, dasturiy ta’minot, axborot-kommunikatsiya tarmoqlarining rivojlanishi jamiyatning fuqarolar tasviridan foydalanish imkoniyatlarini sezilarli darajada oshirdi. Ushbu yutuqlar bilan birga uchinchi tomonlarning shaxsiy tasvirlardan foydalanish huquqini nazorat qilishdagi fuqaroning roli kamayib borishi kamchilik sifatida baholanmoqda. Shuningdek, zamonaviy raqamli asrda shaxs tasvirlari global tarmoqlarda bemalol tarqalib, ularni boshqarish muammolari kundalik hayotdagi masalalardan biriga aylangan. Inson huquqlari bo‘yicha Yevropa Sudi qarorlarida tasvir shaxsiyatning asosiy atributlaridan biri deb e’tirof etilib, bunday tasvirdan foydalanishni shaxsning roziligiga bog‘lash lozimligi ta’kidlanadi. Xususan, 2012-yilda ko‘rilgan “von Hannover Germaniyaga qarshi” sud ishida Inson huquqlari bo‘yicha Yevropa sudi shaxslar haqidagi fotosurat yoki videolar chop etilishida ularning roziligi zarurligini qayd etgan. Shu tarzda, xalqaro amaliyot shaxsiy hayot va sha’nga oid huquqlarni, jumladan, “tasvirga bo‘lgan huquqni” ta’minlash masalalari ustuvor ekanini ko‘rsatmoqda.

Jahonda so‘nggi yillarda sun’iy intellekt yordamida yuzni boshqa videoga hamda rasmga noto‘g‘ri qo‘yish ***(deepfake)*** usullari avj oldi. Tadqiqotlar shuni ko‘rsatadiki, iste’molchilarning 60% dan ortig‘i o‘tgan yilda kamida bitta deepfake videoni ko‘rganini bildirgan[1]. Bunday texnologiyalar nafaqat yolg‘on axborot tarqatish, balki shaxs sha’ni va obro‘siga jiddiy putur yetkazishi mumkin. Masalan, 2023-yilda deepfake yordamida moliyaviy firibgarliklar 3000%ga oshgani qayd etilgan[2]. Shu bilan birga, xalqaro miqyosda yuzni tanib olish texnologiyalari ommalashdi. Masalan, “Clearview AI” kabi kompaniyalar bir nechta davlatlardan yig‘ilgan yuzlarga oid ma’lumotlar bazasida taxminan 30 milliarddan ortiq tasvirga ega ekanligi oshkor etilgan[3]. Bunday ommaviy ma’lumotlar bazalari va keng joriy etilgan kuzatuv kameralarining noto‘g‘ri qo‘llanilishi fuqarolarning shaxsiy daxlsizligiga katta xavf soladi. O‘z navbatida, Yevropa Ittifoqi va boshqa davlatlar ushbu texnologiyalarni me’yorlashga kirishib, ma’lumotlarni himoya qilishga oid qonunlarni va sun’iy intellektga (keying o‘rinlarda AI) oid qonunchilik orqali himoya choralarini belgilamoqda. Ushbu global tendensiyalar shuni ko‘rsatadiki, shaxs tasviriga bo‘lgan huquq masalasi nafaqat milliy chegaralarda, balki xalqaro miqyosda ham yuqori dolzarblik kasb etadi. Bu esa, o‘z navbatida, tasvirga bo‘lgan huquq muhofazasini fuqarolik huquqiy jihatdan ko‘rib chiqish hamda himoyaning universalligini ta’minlovchi javobgarlik choralarini ishlab chiqishga doir masalalarni ilmiy-nazariy tadqiq etish zarurati mavjudligini bildiradi.

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[1]Sun’iy intellekt, biometrika, mashinani o‘rganish va liveness (jonlilik) aniqlash texnologiyalariga asoslangan onlayn identifikatsiya va e-KYC (Know Your Customer) platformasi hisoblanuvchi Jumio kompniyasining **2024-yilgi Online Identity Study** (“Onlayn Identifikatsiya Tadqiqoti”) natijalariga asoslanadi. https://eftsure.com/statistics/deepfake-statistics/#source-wrapper (murojaat etilgan sana: 12.05.2025).

[2]Raqamlar 2023-yilda **Onfido** (“ID Verification” sohasidagi Londondagi kompaniya) tomonidan e’lon qilingan hisobotdan olindi. https://www.entrust.com/products/identity-verification (murojaat etilgan sana: 12.05.2025).

[3] Clayton, J., & Derico, B. (2023, March 28). Clearview AI used nearly 1m times by US police, it tells the BBC. BBC News. https://www.bbc.com/news/technology-65057011 (murojaat etilgan sana: 20.08.2024).

O‘zbekistonda respublika Prezidentining 2019-yil 5-apreldagi PF–5464-son farmoyishi bilan tasdiqlangan fuqarolik qonunchiligini takomillashtirish konsepsiyasida shaxs tasviriga bo‘lgan huquqni ishonchli himoya qilish vazifasi qo‘yildi. Shunga qaramay, shaxslarning tasviridan foydalanish bilan bog‘liq munosabatlarda shaxsiy daxlsizlik huquqi uni amalga oshirish mexanizmlari bilan ta’minlanmaganligi sababli cheklanmoqda. Amaldagi fuqarolik qonunchiligida shaxsning o‘z tasviriga bo‘lgan huquqi (**image right**) alohida mustaqil obyekt sifatida mukammal tartibga solinmagan. Fuqarolik kodeksining 99-moddasi shaxsning nomulkiy huquqlari safida “nomga bo‘lgan huquqi, tasvirga bo‘lgan huquqi, mualliflik huquqi, boshqa shaxsiy nomulkiy huquqlar”ni sanab o‘tgani bilan, bu huquqlar mazmuni va himoyasi bo‘yicha aniq mexanizmlar belgilamagan. Aksariyat hollarda shaxsning tasvirini ruxsatsiz e’lon qilish va ishlatish masalalari tasodifiy tushuntirishlarga tayanib qoladi[4]. Shu sababli O‘zbekiston kontekstida mazkur huquqni fuqarolik-huquqiy tartibga solish muammosi dolzarb bo‘lib, alohida normativ normalar bilan aniqlashtirishga zarurat mavjud. Fuqarolar tasvirlari bilan bog‘liq masalalar, ayniqsa, amaliy vaziyatlarni hisobga olgan holda, O‘zbekiston qonunchiligi va huquq doktrinasida zarur darajada ishlab chiqilmagan, bu o‘z navbatida hujjatlarni rasmiylashtirish, buzilgan tasvir huquqini himoya qilish va shaxsiy hayot daxlsizligi huquqlarini rivojlantirishga to‘sqinlik qiladi. Xorijiy mamlakatlarda tasvirga bo‘lgan huquqqa oid munosabatlarni fuqarolik-huquqiy tartibga solish bo‘yicha quyidagi huquqiy doktrinalar amal qiladi: “Shaxsiy nomulkiy huquq doktrinasi” **(*image right as a subset of personality*)**, “Mulkiy huquq doktrinasi” **(*image as a property right doctrine*)**, “Shaxsiy hayot daxlsizligi huquqi doktrinasi” **(*privacy right doctrine*)**, “shaxs tasvirini fotografning mualliflik huquqi obyekti sifatida muhofazalash yondashuvi” ***(moral right doctrine)***, “tasvirni shaxsiy ma’lumot sifatida muhofazalash doktrinasi” **(*data protection*)**. Yondashuvlar orasidan mamlakatimiz huquq nazariyasi va qonunchiligida tasvirga bo‘lgan huquq himoyasining nisbatan universalligini ta’minlovchi rejimni asoslantirish, mavjud normativ-huquqiy hujjatlarni xalqaro norma va tamoyillarga moslashtirish, uning muvozanatli va moslashuvchan normativ-huquqiy baza sifatidagi o‘rnini mustahkamlash hamda innovatsion yechimlarni taklif etish zarurati tadqiqotda ko‘rib chiqiladigan asosiy masalalardan hisoblanadi.

Mazkur tadqiqot, shuningdek, O‘zbekiston Respublikasining Fuqarolik kodeksi (1995-1996-yillar), O‘zbekiston Respublikasining “Jurnalistlik faoliyatini himoya qilish to‘g‘risida”gi (1997-yil), O‘zbekiston Respublikasining “Axborotlashtirish to‘g‘risida”gi (2004-yil), O‘zbekiston Respublikasining “Ommaviy axborot vositalari to‘g‘risida”gi (2007-yil), O‘zbekiston Respublikasining “Shaxsga doir ma’lumotlar to‘g‘risida”gi (2019-yil), O‘zbekiston Respublikasining “Reklama to‘g‘risida”gi (2022-yil) qonunlari, O‘zbekiston Respublikasi Prezidentining 2019-yil 5-apreldagi “Fuqarolik qonunchiligini takomillashtirish chora-tadbirlari to‘g‘risida”gi PF–5464-sonli farmoyishi va sohaga oid boshqa qonun hujjatlarining amalga oshirilishini muayyan darajada ta’minlashga xizmat qiladi.

[4]https://www.kun.uz/news/2020/01/15/ozbekistonda-fuqaroning-foto-tasviridan-uning-ruxsatisiz-foydalanish-mumkinmi#:~:text=Biroq%2C%20milliy%20qonunchilikda%20fuqaroning%20tasvirga,huquqi%20daxlsizligi%20chegaralari%20aniq%20belgilanmagan (murojaat etilgan sana: 08.03.2024)

Tadqiqotning respublika fan va texnologiyalari rivojlanishining ustuvor yo‘nalishlariga mosligi. Dissertatsiya tadqiqoti respublikada fan va texnologiyalarni rivojlantirishni nazarda tutuvchi “2022-2026-yillarga mo‘ljallangan Yangi O‘zbekistonning taraqqiyot strategiyasi”ning II bo‘limida belgilangan mamlakatimizda adolat va qonun ustuvorligi tamoyillarini taraqqiyotning eng asosiy va zarur shartiga aylantirishga doir ustuvor yo‘nalishi asosida bajarilgan.

Muammoning o‘rganilganlik darajasi. Bevosita fuqaroning tasviri bilan bog‘liq huquqiy munosabatlar va huquqiy muammolarni kompleks tadqiq qilish bo‘yicha milliy olimlar tomonidan amalga oshirilgan ishlar mavjud emas. Biroq shaxsiy nomulkiy huquqlarni fuqarolik-huquqiy tartibga solishning ayrim masalalari doirasida fuqaroning o‘z imidjiga bo‘lgan huquqi nomoddiy obyekt sifatida o‘rganilgan. Jumladan, akademik H.Rahmonqulov, professor I.Zokirov, professor O.Oqyulov, N.Imomovlar shaxs huquqlari, qadr-qimmati, daxlsizligi kabi huquqlar va ularning himoyasi, inson shaxsiy huquqlariga putur yetkazilishi natijasida kelib chiqadigan ma’naviy zararni qoplash masalalari va muammolarini aks ettiruvchi qator ilmiy ishlar e’lon qilishgan[5].

Fuqarolik huquqiy tadqiqotlar ichida I.Nasriyev, T.Umarov, A.Hasanov, A.Xolmatov, X.Paluaniyazov, R.Xonnazarov, I.Yakubovalarning shaxsiy nomulkiy huquqlar bo‘yicha amalga oshirgan tadqiqotlari, ayniqsa, diqqatga sazovor[6].

Xorijiy olimlardan jismoniy shaxsning o‘z tasviriga bo‘lgan huquqi bilan bog‘liq ayrim masalalarni o‘rganish bilan turli vaqtlarda A.V.Zavadskiy, K.B.Yaroshenko, I.A.Pokrovskiy, E.A.Fleyshits, M.N.Maleina, L.O. Krasavchikova, A.A.Nikolayeva, A.M.Erdelevskiy, E.P.Gavrilov, S.P.Grishayev, A.M.Zinin, I.V. Vorobyova, D.G.Durnaykin, V.A. Mikryukov, A.V.Ivanov, shuningdek, Yevropa Ittifoqi va ingliz huquqi mamlakatlari tadqiqotchi olimlaridan J. Barta, R. Markiyewicz, A. Matlak, R.Moosavian, D.Mangan, S.Ch.Ekaratne, T. Fricke, K. Stefaniuk, Gugo Keysner va Lauriye Propolislar shug‘ullangan[7]. Ushbu tadqiqotlarda fuqaroning o‘z tasviriga bo‘lgan huquqi masalalari bo‘yicha keltirilgan nazariy fikrlar va xulosalar hozir ham dolzarbdir.

Dissertatsiya ishining ilmiy-tadqiqot ishlari rejalari bilan bog‘liqligi. Tadqiqot ishi Toshkent davlat yuridik universiteti ilmiy tadqiqot ishlari rejasiga kiritilgan va ilmiy tadqiqotning ustuvor yo‘nalishlari doirasida amalga oshirilgan.

Tadqiqotning maqsadi fuqarolarning tasvirga bo‘lgan huquqini fuqarolik huquqining obyekti sifatida nazariy va amaliy jihatdan chuqur o‘rganish, ushbu huquqning mazmun-mohiyatini aniqlash, uni huquqiy jihatdan himoya qilishning samarali mexanizmlarini ishlab chiqish hamda tasvirdan roziliksiz foydalanish holatlarida yuzaga keladigan huquqiy munosabatlarni tartibga solishga oid taklif va tavsiyalar ishlab chiqishdan iborat.

Tadqiqotning vazifalari:

tasvirga bo‘lgan huquq muhofazasining tarixiy rivojlanishi va mavjud nazariy yondashuvlarni tahlil qilish;

[5] Mazkur olimlar asarlarining to‘liq ro‘yxati dissertatsiyaning foydalanilgan adabiyotlar ro‘yxatida ko‘rsatilgan.
[6] Mazkur olimlar asarlarining to‘liq ro‘yxati dissertatsiyaning foydalanilgan adabiyotlar ro‘yxatida ko‘rsatilgan.
[7] Mazkur olimlar asarlarining to‘liq ro‘yxati dissertatsiyaning foydalanilgan adabiyotlar ro‘yxatida ko‘rsatilgan.

tasvirni fuqarolik huquqining obyekti sifatida baholashning nazariy asoslarini aniqlash;

tasvirga bo‘lgan huquqni muhofazalashning o‘ziga xos xususiyatlarini qiyosiy tahlil qilish;

tasvirdan bosma nashrlarda (parodiya yoki karikatura janrida) foydalanishning huquqiy muammolarini o‘rganish hamda ularga yechim berish;

tasvirni komodifikatsiyalash bilan bog‘liq munosabatlarni fuqarolik-huquqiy tartibga solish;

axborot-kommunikatsiya texnologiyalarning rivojlanishi sharoitida shaxs tasviridan Internetda foydalanishni huquqiy tartibga solish;

tasvirga bo‘lgan huquq buzilganda qo‘llaniladigan fuqarolik-huquqiy himoya vositalarini o‘rganish va ularning samaradorligini baholash;

ommaviy va xususiy manfaatlar o‘rtasidagi muvozanatni saqlash uchun qo‘llaniladigan cheklovlarni o‘rganish;

fuqarolarning tasvir huquqini samarali himoya qilishga qaratilgan taklif va tavsiyalar ishlab chiqish, shu jumladan, amaldagi qonunchilikka o‘zgartish hamda qo‘shimchalar kiritish yuzasidan ilmiy asoslangan takliflar berish.

Tadqiqotning obyektini tasvirga bo‘lgan huquqni fuqarolik-huquqiy tartibga solish bilan bog‘liq bo‘lgan huquqiy munosabatlar tashkil qiladi.

Tadqiqotning predmeti. Tadqiqot mavzusi O‘zbekiston Respublikasi hududida amal qiluvchi, fuqaro tasviridan foydalanilganda yuzaga keladigan fuqarolik-huquqiy munosabatlarni tartibga soluvchi fuqarolik qonunchiligini, xalqaro huquq va ayrim xorijiy davlatlarning milliy qonunchiligi normalarini o‘rganishni, shuningdek fuqaro tasviridan foydalanish, uni muhofaza va himoya qilish borasidagi nazariy va amaliy ilmiy ishlanmalar, sud amaliyoti materiallarini o‘z ichiga oladi.

Tadqiqotning usullari. Tadqiqotda nazariy va empirik usullar majmuasi, shu jumladan, tarixiy-huquqiy, qiyosiy-huquqiy, formal-yuridik, tizimli-tahliliy, dialektik usul, analiz va sintez usuli, normativ-huquqiy va amaliy tahlil usuli, umumlashtirish, mantiqiylik, huquqni qo‘llash va sud amaliyotini tahlil qilish kabi usullar qo‘llanilgan.

Tadqiqotning ilmiy yangiligi quyidagilardan iborat:

fuqaroni tasvirga olish va undan foydalanishda rozilik olish majburiyligi, 16 yoshga yetgan shaxslar rozilik berishda mustaqil subyekt bo‘la olishligi hamda jamoat va davlat manfaatlarini hisobga olganda roziliksiz ham tasvirdan foydalanish mumkin bo‘lgan holatlar mavjudligi asoslantirilgan;

tasvirga bo‘lgan huquq shaxsiy hamda ommaviy manfaatlar kesishmasida muvozanatni ta’minlash vazifasini keltirib chiqarishi tahlil qilinib, ilm-fan, madaniyat va boshqa sohalar taniqli vakillarining tasviridan jamiyat uchun katta qiziqish uyg‘otadigan axborotni tarqatish maqsadlarida foydalanilganda rozilik talab etilmasligi asoslantirilgan;

fuqaroning shaxsiy hayoti, shu jumladan, uning kelib chiqishi, yashash joyi, shaxsiy va oilaviy hayoti to‘g‘risidagi har qanday axborotni yig‘ish, saqlash, tarqatish va foydalanishga uning roziligisiz yo‘l qo‘yilmasligi asoslantirilgan;

huquqni muhofaza qiluvchi organ xodimlarining foto va (yoki) videotasvirini

ularning obro‘sizlantirilishiga olib keladigan tarzda buzib tarqatish uchun javobgarlikni kuchaytirish asoslantirilgan.

Tadqiqotning amaliy natijalari quyidagilardan iborat:

amaldagi qonunchilikda inson tasvirining huquqiy maqomi to‘liq va aniq belgilanmaganligi, ushbu huquqni buzganlik uchun fuqarolik-huquqiy javobgarlik choralari aniq ko‘rsatilmaganligi aniqlanib, O‘zbekiston Respublikasi Fuqarolik kodeksiga inson tasviri bilan bog‘liq mustaqil norma kiritish zarurati asoslab berildi;

fuqarolarning roziligisiz ularning tasviridan mahsulot reklamasi, brend yaratish yoki boshqa daromad olish maqsadida foydalanishga oid nizolarni hal qilishda aniqlik kiritish zarurati asoslantirilib, tasvir huquqining tijoratlashtirilishi bilan bog‘liq munosabatlarni tartibga solish mexanizmlarini ishlab chiqish taklif qilindi;

axborot texnologiyalari va ijtimoiy tarmoqlarda fuqarolarning tasviridan foydalanishning huquqiy chegaralari belgilandi;

sud-amaliyotida tasvir huquqining buzilishi bilan bog‘liq da’volarni ko‘rib chiqishda yagona yondashuv ishlab chiqish zarurati tufayli tasvirga bo‘lgan huquq bilan bog‘liq Oliy Sud Plenumi qarori loyihasi ishlab chiqildi.

Tadqiqot natijalarining ishonchliligi. Tadqiqot natijalarining ishonchliligi ishda qo‘llanilgan usullar, uning doirasida foydalanilgan nazariy yondashuvlar rasmiy manbalardan olingani, xalqaro tajriba va milliy qonun hujjatlarining o‘zaro tahlil qilingani, xulosa, taklif va tavsiyalarning amaliyotda joriy etilgani, olingan natijalarning vakolatli tuzilmalar tomonidan tasdiqlangani bilan izohlanadi.

Tadqiqot natijalarining ilmiy va amaliy ahamiyati. Ushbu dissertatsiya tadqiqotining nazariy ahamiyati shundaki, unda ishlab chiqilgan ilmiy xulosalar, taklif va tavsiyalar fuqarolarning tasviri bilan bog‘liq huquqiy munosabatlarni chuqur tahlil qilish hamda ularni huquqiy jihatdan tartibga solish borasidagi mavjud nazariy qarashlarni boyitadi. Tadqiqot natijalari shuningdek, fuqaroning individual qiyofasini aks ettiruvchi tasvirdan foydalanish institutini yanada chuqurroq o‘rganish, mavjud tushunchalarni takomillashtirish va bu boradagi huquqiy normalarni rivojlantirish uchun mustahkam nazariy asos yaratadi. Tadqiqotdan kelib chiqqan ilmiy g‘oyalar fuqarolarning tasviriga oid huquqiy munosabatlarni ilmiy jihatdan yoritishda va keyingi tadqiqotlar uchun poydevor bo‘lib xizmat qiladi.

Tadqiqotning amaliy ahamiyati shundan iboratki, unda ilgari surilgan taklif va tavsiyalar amaldagi qonunchilikni takomillashtirish, fuqarolarning tasvirlaridan foydalanish bilan bog‘liq huquqiy munosabatlarni tizimli tartibga solish imkonini beradi. Jumladan, fuqaro tasviridan foydalanishni shartnomalar va qonuniy asosda amalga oshirish, tasvirlarni himoya qilish mexanizmlarini takomillashtirish, shuningdek fuqarolarning shaxsiy va mulkiy manfaatlarini himoya qilish bo‘yicha amaliy choralarni ko‘rish uchun xizmat qiladi. Bundan tashqari tadqiqot natijalari fuqarolarning tasvirlarini tijorat muomalasiga jalb qilish, tasvirlar bozorini shakllantirish, kompensatsiya miqdorini asosli belgilash va shu sohadagi nizolarni tezkor hamda adolatli hal etishda amaliy ahamiyat kasb etadi. Shu bilan bir qatorda, tadqiqot natijalaridan respublikada endi rivojlanayotgan “Ommaviy axborot vositalari huquqi” (***Mass Media Law***) hamda “Shaxsiy hayot daxlsizligi huquqi” (***Privacy Law***) modullari bo‘yicha yoziladigan darslik hamda o‘quv qo‘llanmalarni yaratish, ma’ruza matnlari, o‘quv kurslarining dasturlarini tuzishda foydalanish mumkin.

Tadqiqot natijalarining joriy qilinishi. Tasvirga bo‘lgan huquqni fuqarolik-huquqiy tartibga solish bo‘yicha olib borilgan tadqiqot natijalari asosida:

fuqaroni tasvirga olish va undan foydalanishda rozilik olish orqali himoya qilish bilan bog‘liq taklif O‘zbekiston Respublikasi Prezidentining 2019-yil 5-apreldagi F-5464-son Farmoyishi bilan tasdiqlangan O‘zbekiston Respublikasining fuqarolik qonunchiligini takomillashtirish konsepsiyasi asosida ishlab chiqilgan yangi tahrirdagi O‘zbekiston Respublikasi Fuqarolik kodeksi loyihasining 109-moddasi birinchi qismida o‘z aksini topgan (O‘zbekiston Respublikasi Adliya vazirligi Qonunchilik departamentining 2025-yil 22-iyuldagi 8/0010-02-son dalolatnomasi). Ushbu taklifning joriy qilinishi tasvirga bo‘lgan huquq muhofazasi uchun huquqiy asos yaratishga, shuningdek shaxs tasviridan foydalanishni tartibga solishga xizmat qilgan;

ilm-fan, madaniyat va boshqa sohalar taniqli vakillarining tasviridan jamiyat uchun katta qiziqish uyg‘otadigan axborotni tarqatish maqsadlarida foydalanilganda rozilik talab etilmasligi bilan bog‘liq taklif yangi tahrirdagi O‘zbekiston Respublikasi Fuqarolik kodeksi loyihasining 28-moddasi uchinchi qismi ikkinchi bandida o‘z aksini topgan (O‘zbekiston Respublikasi Adliya vazirligi Qonunchilik departamentining 2025-yil 22-iyuldagi 8/0010-02-son dalolatnomasi). Ushbu taklif jamoat arboblari, mashhurlarning tasvirga bo‘lgan huquqini maxsus rejimda muhofazalashga hamda axborot olishga bo‘lgan erkinlikni ta’minlashga xizmat qilgan;

fuqaroning shaxsiy hayoti bilan bog‘liq axborotdan foydalanish tartibiga oid taklif yangi tahrirdagi O‘zbekiston Respublikasi Fuqarolik kodeksi loyihasining 110-moddasi birinchi-ikkichi qismlarida o‘z aksini topgan (O‘zbekiston Respublikasi Adliya vazirligi Qonunchilik departamentining 2025-yil 22-iyuldagi 8/0010-02-son dalolatnomasi). Ushbu taklifning joriy qilinishi fuqaroning shaxsiy hayotini fuqarolik huquqiy muhofaza qilishga xizmat qilgan;

huquqni muhofaza qiluvchi organ xodimlarining foto va (yoki) videotasvirini ularning obro‘sizlantirilishiga olib keladigan tarzda buzib tarqatish uchun ma’muriy javobgarlikka oid taklif O‘zbekiston Respublikasi Ma’muriy javobgarlik to‘g‘risidagi kodeksning 195^2-moddasida o‘z aksini topgan (O‘zbekiston Respublikasi Bosh prokuraturasining Qonuniylik va huquqiy tartibotni ta’minlash muammolarini tahlil qilish boshqarmasining 2025-yil 17-iyuldagi 27/2-158-25-son dalolatnomasi). Ushbu takliflarning joriy etilishi huquqni muhofaza qiluvchi organlar xodimlarining tasvirga bo‘lgan huquqlarini samarali himoya qilishning huquqiy asoslarini takomillashtirish orqali ularning shaxsiy-nomulkiy huquqlari himoyasini kuchaytirishga xizmat qilgan.

Tadqiqot natijalarining aprobatsiyasi. Tadqiqot natijalari 4 ta, jumladan, 2 ta xalqaro, 2 ta respublika ilmiy-amaliy anjumanlarida muhokamadan o‘tkazilgan.

Tadqiqot natijalarining e’lon qilinganligi. Tadqiqot mavzusi bo‘yicha jami 11 ta ilmiy ish, shu jumladan OAKning dissertatsiya asosiy ilmiy natijalarini chop etishga tavsiya etilgan nashrlarda 5 ta maqola (3 tasi xorijiy nashrlarda) chop etilgan.

Dissertatsiyaning tuzilishi va hajmi. Dissertatsiya kirish, to‘qqizta paragrafdan iborat uch bob, xulosa, foydalanilgan adabiyotlar ro‘yxati va ilovalardan iborat. Dissertatsiyaning hajmi 153 betni tashkil etadi.

DISSERTATSIYANING ASOSIY MAZMUNI

Dissertatsiyaning **kirish** qismida tadqiqot mavzusining dolzarbligi va zaruriyati asoslantirilib, tadqiqotning maqsadi va vazifalari, obyekti va predmeti yoritib berilgan. Shuningdek, dissertatsiya mavzusi bo‘yicha xorijiy ilmiy-tadqiqotlar sharhi, respublika fan va texnologiyalari rivojlantirishning ustuvor yo‘nalishlarga mosligi aniq ko‘rsatilib, muammoning o‘rganilganlik darajasi, mavzuning dissertatsiya bajarilayotgan oliy ta’lim muassasasining ilmiy tadqiqot ishlari rejasi bilan aloqadorligi, usullari, ilmiy yangiligi va ahamiyati tahlil qilingan. Yuqoridagilar bilan bir qatorda, tadqiqot natijalarining amaliyotga joriy qilinishi, nashr etilgan ishlar va dissertatsiyaning tuzilishi hamda hajmi haqida ma’lumotlar keltirilgan.

Dissertatsiyaning “**Fuqarolarning tasviriga bo‘lgan huquqining umumiy tavsifi”** deb nomlangan birinchi bobida inson tasvirini huquqiy muhofaza qilishning tarixiy tajribasi, unga oid huquqiy yondashuvlar, fuqaro tasvirining yuridik tabiati, uning nomoddiy obyekt sifatidagi tasnifi, O‘zbekiston hamda xorijiy mamlakatlarda ushbu huquqni muhofazalashning xususiyatlari ilmiy tahlil etilgan. Ijtimoiy munosabatni tartibga solish hamda u bilan bog‘liq huquqning zaruriyatini baholashdan oldin, avvalo, ushbu huquq bilan bog‘liq amaliyotni aniq tushunish muhimdir. Dissertant birinchi bobda tasvirga bo‘lgan huquq bilan bog‘liq hozirgi amaliyotni o‘rganishni asosiy maqsad qilib oladi. Buning uchun, birinchidan, shaxs tasviriga oid huquqqa nisbatan doktrinal yondashuvlar ko‘rib chiqiladi.

Tadqiqotchi fuqarolik huquqining obyekti sifatida tasvirga bo‘lgan huquq bilan bog‘liq ilmiy yondashuvlarni (tasvirga bo‘lgan huquqni shaxsiy nomulkiy huquqlarning bir turi sifatida ko‘rish ***(Publicity as a subset of personality rights)*** (H.Rahmonqulov, I.Zokirov, I.Nasriyev, I.Yakubova, B.Smith, E.Logeais, A.Nikolayeva, L.Krasavchikova), tasvirga bo‘lgan huquqni mulk sifatida qarash ***(Publicity as property)*** (M.B.Nimmer, Jerome Frank, Mc.Carthy)***, “Shaxsiyatdan ruxsatsiz foydalanish” (Appropriation of personality)*** (Justice Estey, D.Vaver, R.Howel), uni shaxsiy hayot daxlsizligi huquqi tarkibida ***(Privacy rights doctrine)*** muhofazalash (S. Warren, L.Brandeis), mualliflik huquqi singari himoya qilish ***(Moral rights doctrine)*** (A.Zavadskiy, A. Matlak) hamda shaxsga doir ma’lumot sifatida himoyalash nazariyalarini o‘rganadi va O‘zbekiston uchun huquq oilasi, tizimi, ijtimoiy va iqtisodiy hayoti e’tiboridan tasvirga bo‘lgan huquqni **shaxsiy nomulkiy huquq sifatida monistik model** orqali muhofazalash ma’qul ekanligini asoslab beradi. Ushbu yondashuvda shaxsiy nomulkiy huquqlar (jumladan, tasvirga bo‘lgan huquq) egasi bilan ajralmas darajada bog‘liq bo‘lib, ular insonni jismoniy va ma’naviy mavjudot sifatida tan oladi hamda uning o‘z mavjudligini his qilish huquqini kafolatlaydi. Shu sababli, bu yondashuvga ko‘ra shaxsiy nomulkiy huquqlar har bir insonning asosiy (fundamental) huquqlari hisoblanib, o‘zidan begonalashmaydi. Monistik model kontinental yondashuvda dualistik modelga muqobil sifatida qo‘llanilib, uning mazmuni bitta umumiy shaxsiy nomulkiy huquq (ya’ni ***general personality right***) bir vaqtning o‘zida ham axloqiy (***dignitarian***), ham iqtisodiy (***economic***) manfaatlarni himoya qilishi bilan belgilanadi.

Birinchi bobda, shuningdek, milliy olimlardan I.Zokirov, O.Oqyulov, A.Hasanov, I.Nasriyev, xorijiy huquqshunoslardan J. Barta, R. Markiyewicz, A. Matlak, M.N.Maleina, L.O. Krasavchikova, A.A.Nikolayeva fikrlari umumlashtirilib, tasvirga bo‘lgan huquqni qonun doirasida muhofazalashni takomillashtirish va amaliyotda to‘g‘ri qo’llay olish maqsadida uni eksklyuziv shaxsiy nomulkiy huquq sifatida tasniflash lozimligi asoslantiriladi.

Dissertatsiyaning ikkinchi bobi **“Tasvirga bo‘lgan huquqdan foydalanishni huquqiy tartibga solish muammolari”**ga bag‘ishlangan. Unda bosma materiallarda, audiovizual asarlarda, shuningdek, “parodiya” yoki “karikatura” janrida yaratilgan fuqarolarning tasvirlaridan foydalanish, tasvir huquqini tijoratlashtirish bilan bog‘liq hamda Internetda foydalanishning huquqiy asoslari o‘rganiladi.

Dissertantning o‘rganishlari va kuzatuvlariga ko‘ra globallashuv va texnologik rivojlanish zamonida shaxs tasvirlaridan nomuvofiq foydalanish ko‘lami sezilarli ortdi. Bunday holatda individga tegishli subyektiv huquqni himoya qilish mexanizmlarini ishlab chiqish uchun nafaqat huquqbuzarlarning dalillarini, shuningdek fuqarolarning tasvirlaridan noto‘g‘ri foydalanishning eng keng tarqalgan usullarini tahlil qilish va ularga huquqiy baho berish, shuningdek tasvirga bo‘lan huquq muhofazasini istisno etadigan holatlarni qiyosiy o‘rganish muhimdir. Tadqiq qilingan holatlar ichida bosma materiallarda, audiovisual asarlarda, tijoriy tovarlar hamda internetda tasvirdan nomuvofiq foydalanish tez-tez uchrashi ayon bo‘ldi. Bularga sabab sifatida esa har xil obyektiv hamda subyektiv omillar tahlil qilinadi.

Shuningdek, tadqiqotchi tomonidan shaxs tasvirini tijorat maqsadida foydalanishga oid nazariy qarashlar ham, aynan, ushbu bobda ko‘rib chiqildi. Nazariy jihatdan, tasvir huquqining tijoratlashtirilishiga oid ikki asosiy yondashuv mavjudligi, birinchi yondashuv – ***shaxsiy huquqiy yondashuv (personalistik)*** bo‘lib, unga ko‘ra, tasvir huquqi shaxsiy hayot daxlsizligi bilan bevosita bog’liq va uni tijorat vositasiga aylantirish inson huquqlarining buzilishi sifatida baholanishi, ikkinchi yondashuv – ***iqtisodiy huquqiy yondashuv (utilitarizm)***, bu nazariyaga ko‘ra, shaxsning tasviri intellektual mulk sifatida ko‘rilishi mumkin va unga egalik qilish orqali tijorat daromadi olish tabiiy huquq sanalishi haqidagi fikrlar atroflicha o‘rganildi. Yondashuvlar xulosasi sifatida O‘zbekiston amaliyotiga tasvirga bo‘lgan huquqni tijoratlashtirish uchun iqtisodiy huquqiy doktrinaga o‘tish lozimligi, komodifikatsiyani amalga oshirish uchun esa fuqarolik qonunchiligida tasvirdan iqtisodiy jihatdan foydalanish mumkinligi haqidagi normani aks ettirish va shartnoma, meros qoldirish, jamoaviy boshqaruv asosida tijoratlashtirish kabi mexanizmlarni qo‘llash mumkinligi tahlil qilindi.

Bobning ikkinchi rejasida tasvirdan tijoriy maqsadda foydalanish amaliyoti aslida qanday ekani aniqlashtirildi va bunday foydalanishning predmeti quyidagi uch yo’nalishda ifodalanishi asoslab berildi:

I. Ommaviy axborot vositalarida (OAV) axborot maqsadida foydalanish; **II.** Reklama yoki tovar targ‘iboti maqsadida foydalanish; **III.** Tovarlashtirish (merchandising) maqsadida – bunda shaxs qiyofasidan tovarlarning o‘zida tasvir sifatida yoki foydalaniladigan predmet sifatida foydalanish.

Tijoriy yo‘nalishlar orasida eng keng tarqalgani reklama bo’lganligi uchun, tasvirdan bunday maqsadda foydalanishning ilmiy-amaliy jihatlari atroflicha o‘rganildi. O‘zbekistonda mavjud reklamaga oid qonunchilik tahlil qilinib, tasvirdan reklamada foydalanishda doim shaxsning roziligi talab qilinishi belgilangani, bunday qoida nafaqat mamlakatimiz qonunchiligi, balki boshqa mamlakatlar qonunchiligida ham bir xillikni kasb etishi haqidagi xulosaga kelindi. Qolaversa, reklamaga oid ommaviy huquq qoidalarining tasvirga bo’lgan huquq bilan bog‘liq xususiy huquq qoidalarining kolliziyasi ham tadqiq qilinib, bu borada rus olimasi M.N.Maleinaning qarashlari alohida ko‘rib chiqildi.

Ikkinchi bobning uchinchi rejasi doirasida shaxs tasviridan Internetda foydalanish bilan bog‘liq huquqiy masalalar muhokama qilindi. Xususan, Internetda fuqarolar tasvirlaridan foydalanish holatlariga xos muammolar qatoriga 1) fuqaroning Internet tarmog’ida tasviri roziliksiz foydalanilganligi faktini lozim darajada isbot qiluvchi dalillarni to‘plash, 2) javobgarlikka tortilishi lozim bo‘lgan subyektni aniqlash; 3) tasvirning raqamli muhitdagi shakllari (avatar, token, NFT kabi)ni tasvirga bo‘lgan huquq doirasiga tushirish masalalarini kiritish mumkinligi aytib o‘tildi. Reja mana shu uch muammoni keyingi o‘rinlarda kengroq tahlil qilishga bag‘ishlandi. Yuqoridagi muammolarga yechim sifatida Internetda yoki boshqa axborot-aloqa tarmoqlarida fuqaroning tasviri e’lon qilingan yoki foydalanilgan bo‘lsa-yu, biroq buni amalga oshirgan shaxs aniqlanmasa, bunday huquqbuzarlik uchun javobgar shaxs deb tasvir joylashtirilgan resurs (sayt, platforma) egasi hisoblanishi kerakligi haqidagi nazariy taklif asoslantirildi. Shuningdek, amaldagi Fuqarolik kodeksi fuqarolarning tasvirlaridan Internetda foydalanish bo‘yicha maxsus qoidalarni o‘z ichiga olmasligi, boshqa qonun hujjatlarida ham bunday normalar mavjud emasligi sababidan shaxs roziligisiz tarqatilgan tasvirlarni Internet tarmog’idan o‘chirish, qolaversa, ushbu tasvirni tarqatishni to‘xtatish yoki taqiqlash talabi da’vogar tomonidan javobgarga qo‘yilishi haqidagi qoidani qonunchilikka kiritish haqidagi taklif ilgari surildi.

Dissertatsiyaning uchinchi bobi **“Fuqaroning tasviriga bo‘lgan buzilgan huquqini himoya qilish masalalari”** deb nomlanib, unda O‘zbekistonda tasvirga bo‘lgan huquqni himoya qilishning o‘ziga xos xususiyatlari, xorijiy mamlakatlarda tasvirga bo‘lgan huquq himoyasi, himoyani istisno etuvchi sabablar va ushbu huquqqa daxl qilinganda qo‘llaniladigan fuqarolik javobgarlik choralarini takomillashtirish istiqbollari ilmiy-nazariy hamda amaliy jihatdan o‘rganilgan. Bobning birinchi rejasida O‘zbekistonda shaxsning tasvirga bo‘lgan huquqini himoya qilish bo‘yicha mavjud qonunchilik va sud amaliyotining o‘ziga xos xususiyatlari ko‘rib chiqilgan. Dissertantning fikricha, amaldagi Fuqarolik kodeksida bevosita tasvir huquqi mustaqil huquq sifatida nazarda tutilmagan bo‘lsa-da, uni shaxsiy nomulkiy huquqlarning tarkibiy qismi sifatida talqin qilish mumkin. Sud amaliyoti tajribalari shuni ko‘rsatadiki, amaldagi qonunlarda bu huquqni buzilishidan himoya qilish tartibi noaniq va umumiy tusda ifodalangan, bu esa sud organlariga keng talqin doirasini qoldiradi. Shu sababli, tasvirga bo‘lgan huquqni mustaqil huquq sifatida normativ-huquqiy jihatdan mustahkamlash zarurati mavjud.

Ikkinchi rejada tasvir himoyasi ham mutlaq emasligi, ayrim mustasno holatlar cheklov sifatida ommaviy manfaatlarni ham hisobga olishi o‘rganilgan. Xususan, tasvirga bo‘lgan huquqni o‘z qonunchiligi bilan alohida normalar asosida muhofaza qiladigan mamlakatlarning aksariyatida qoidalar mazmuni turli xil bo‘lsada, shaxsning o‘z tasviriga bo‘lgan huquqi uning roziligini olish zarurati hisobidan muhofazalanishi borasida umumiylikka ega. Biroq, rozilik olish ham boshqa qoidalar kabi istisnolarsiz emas. Bir qator bahslarga qaramay, huquqiy tizimlar ommaviy hamda shaxsiy manfaat orasida muvozanatni saqlash maqsadida shaxsning tasvirini olish va nashr etish uchun uning roziligini talab qilmaslik mumkin degan xulosaga kelishgan. Shu sababdan, ushbu bobda bu boradagi xorijiy tajriba o‘rganilib, shaxs tasviridan roziliksiz foydalanish mumkin bo‘lgan holatlarni tasvir huquqi himoyasiga oid taklif qilinayotgan maxsus moddaga qo‘shimcha sifatida kiritish taklif qilinadi.

Tadqiqotchi, xususan, uchinchi bobning rejalarida tasvirdan huquqbuzarlikka qarshi kurashish maqsadida, davlat va (yoki) jamiyat xavfsizligiga tahdid soluvchi voqea-hodisalar haqida xabar berishda; tasvirdagi shaxsning jinoyat sodir etganligi yoki bedarak yo‘qolganligi sababli qidiruv e’lon qilishda; davlat xizmatchilarining xizmat vazifalarini bajarishi jarayonidagi tasviridan foydalanishda ommaviy hamda shaxsiy manfaat orasidagi muvozanatni saqlash uchun roziliksiz foydalanish mumkinligi, tasvirga bo‘lgan huquqning bunday cheklanishida ham o‘ziga xos shartlar mavjudligini asoslab beradi.

Shuningdek, dissertant tomonidan fuqarolarning so‘z, axborot erkinligi, madaniy almashinuvning ijtimoiy zarurati e’tiboridan fuqaro ommaviy tadbirlarda (konsert, bayram sayillari va boshqa) va jamoat joylarida tasvirlangan hamda tasvirdan foydalanishdan maqsad faqat ushbu joylardagi umumiy jarayonlarni namoyish etish bo‘lsa; davlat va jamoat arboblari hamda ilm-fan, madaniyat va boshqa sohalar taniqli vakillarining tasviridan jamiyat uchun katta qiziqish uyg‘otadigan axborotni tarqatish maqsadlarida foydalanilganda; fuqaroning haq evaziga tushirilgan tasviridan ushbu tasvirni tushirishdan ko‘zlangan maqsadlarda foydalanilganda ham rozilik talab etilmasligi taklifi ishlab chiqiladi.

Bobning uchinchi rejasida tasvirga bo‘lgan huquqlarga daxl qilinganda qo‘llaniladigan fuqarolik javobgarlik choralari tahlil qilinib, amaldagi ma’naviy zararni qoplash, huquqni tan olish, huquq buzilishini oldini olish kabi vositalar yetarli darajada samarali emasligi asoslab berilgan. Ayrim hollarda shaxs roziligisiz tarqatilgan tasvirni himoyalashda javobgar shaxsni aniqlab bo‘lmasligi, bu esa huquq buzilishi oqibatlarini bartaraf qilishni murakkablashtirishi, shu bois, muallif tomonidan javobgarlarni fuqarolik huquqiy javobgarlikka tortishda, ular shaxsini aniqlashning imkoni bo‘lmaganda **domen adminstratorlarini subsidiar javobgar** sifatida jalb etish, ma’naviy zarar bilan birga **tovon pulini** muqobil javobgarlik chorasi sifatida qonunchilikka kiritish, shaxs tasvirining iqtisodiy jihatini himoya qilish uchun asossiz boylik orttirish konstruksiyasini qo‘llagan holda **“gipotezaviy litsenziya haqqini”** joriy qilish, rozilik bitimlarining shartnoma sifatidagi maqomini mustahkamlash, qolaversa, tasvir huquqi internetda buzilganda huquqni buzuvchi harakatlarni oldini olishning maxsus tartibini belgilash taklif etilgan.

XULOSA

Shaxsning tasvirga bo‘lgan huquqi O‘zbekiston qonunchiligida nazariy va qiyosiy jihatdan o‘rganilishi yuzasidan quyidagi taklif va xulosalarga kelindi:

I. Fuqarolik huquqi nazariyasini takomillashtirishga qaratilgan taklif va xulosalar:

1.1. Xorijiy mamlakatlarning nazariy va amaliy tajribasiga tayangan holda tasvirga bo‘lgan huquq tushunchasi hamda uning yuridik tabiati quyidagicha belgilandi: “**Tasvirga bo‘lgan huquq** — bu shaxsning o‘z tasviri (ya’ni fotosurati, videosi, portreti yoki boshqa har qanday ko‘rinishdagi tasviri) ustidan nazorat qilish va undan foydalanishni cheklash huquqidir”. Shaxs tasvirining nomoddiy ne’mat sifatida huquqiy tabiatini tavsiflaydigan bo‘lsak, ushbu nomoddiy ne’mat bajaradigan funksiyasiga ko‘ra shaxsni identifikatsiyalovchi ne’mat; huquqiy ta’sir obyektiga ko‘ra nomulkiy huquq emas, balki nomoddiy ne’mat; vujudga kelish usuliga ko‘ra qonun normalari asosida vujudga keladigan nomoddiy ne’mat; mulkiy tarkib mavjud yoki mavjud emasligiga ko‘ra esa mulkiy tarkibga ega nomoddiy ne’matlar guruhiga kiradi.

1.2. Zamoniy fuqarolik huquqi nazariyasida tasvirga bo‘lgan huquqni shaxsiy nomulkiy huquqlarning bir turi sifatida ko‘rish **(*Publicity as a subset of personality rights*)**, tasvirga bo‘lgan huquqni mulk sifatida qarash **(*Publicity as property*), “shaxsiyatdan ruxsatsiz foydalanish” (*Appropriation of personality*),** uni shaxsiy hayot daxlsizligi huquqi tarkibida **(*Privacy rights*)** muhofazalash, mualliflik huquqi singari himoya qilish **(*Moral rights doctrine*)** hamda shaxsga doir ma’lumot sifatida himoyalash kabi yondashuvlar har tomonlama o‘rganildi. O‘zbekiston uchun huquq oilasi, tizimi, ijtimoiy va iqtisodiy hayoti e’tiboridan tasvirga bo‘lgan huquqni **shaxsiy nomulkiy huquq sifatida monistik model** orqali muhofazalash ma’qul ekanligi asoslab berildi.

1.3. Tasvirga bo‘lgan huquq ham boshqa subyektiv huquqlar singari subyekti, obyekti hamda mazmuni kabi tarkibiy elementlariga ega. Bunda tasvir deganda obyekt nuqtai nazaridan qamrab oluvchi chegarani aniqlash muhim. Shu sababdan, imloviy lug‘atlar hamda huquqshunoslik adabiyotlarini o‘rgangan holda fuqaroning tasviriga quyidagi huquqiy ta’rifni taklif etdik: “**Fuqaroning tasviri – bu tashuvchi vositalar orqali obyektivlashtirilgan ma’lum bir jismoniy shaxsning taniluvchi tashqi qiyofasini qamrab oladigan axborot shakli”**.

1.4. Tasvirga bo‘lgan huquq doirasini aniqlash va shaxsni tanib olish muammosini amalda osonlashtirish uchun tasvirning aks etish usullari va ularning natijasi bo‘lgan shakllar tadqiq qilindi. Pirovardida, shaxs tasvirini vizual, audio, “badiiy niqob”, yozma va “tana san’ati (body art)” usullari orqali aks ettirish mumkinligi asoslantirildi. Bu orqali tasvirga bo‘lgan huquq himoyasida uning doirasini an’anaviy tor ma’noda tushunish bo‘yicha qarashlar inkor qilindi.

1.5. Tasvirga bo‘lgan huquqni qonun doirasida muhofazalashni takomillashtirish va amaliyotda to‘g‘ri qo’llay olish maqsadida uni eksklyuziv shaxsiy nomulkiy huquq sifatida quyidagicha tasniflash lozimligi asoslantirildi: **(i)**

ushbu huquq shaxs tug‘ilgan paytdan boshlab ro‘yxatdan o‘tkazishsiz yoki boshqa rasmiy talablarsiz vujudga kelishi kerak; **(ii)** tasvirga bo‘lgan huquq shaxs hayoti davomida amal qilishi kerak; **(iii)** huquq egasining hayoti davomida ajralmas (ya’ni, begonalashtirilmaydigan) bo‘lishi lozim – uni faqat litsenziyalash mumkin, lekin to‘liqligicha topshirish (begonalashtirib yuborish) mumkin emas; **(iv)** shunga qaramay, tasvir egasiga tirikligi paytida muayyan ro‘yxatdan o‘tish sharti bilan(tovar belgisini ro‘yxatdan o‘tkazish singari) vafotidan keyin bu huquqni meros qilib o‘tkazish va merosxo‘rlar tomonidan amalga oshirish imkoniyatini berish kerak; **(v)** so‘z va axborot erkinligi ushbu huquqdan ruxsatsiz foydalangan hollarda ham uni oqlovchi omil sifatida amal qilishi lozim; **(vi)** tasvirga bo‘lgan huquqdan ruxsatsiz foydalanish asoslari davlat va jamiyat manfaatlariga tayanib, madaniy-kommunikativ maqsadlarda bo‘lishi zarur; **(vii)** shaxs tasviridan noqonuniy foydalanish holatlariga qarshi mavjud himoya usullari bunday foydalanishga yo‘l qo‘ymaslik (interdict) va buzilgan huquqni tiklashni ta’minlay olishi kerak; **(viii)** tasvirga bo‘lgan huquqni himoya qilish bilan bog‘liq javobgarlik choralari shaxsning sha’ni va iqtisodiy manfaatlarini inobatga olgan holda mulkiy va/yoki nomulkiy tusda bo‘lishi kerak; **(ix)** huquq buzilishi natijasida zarar mavjud bo‘lmasa, sud asossiz boylik orttirish konstruksiyasini qo‘llagan holda “gipotezaviy litsenziya haqqini” undirishni ko‘rib chiqishi kerak; **(x)** tasvirga bo‘lgan huquqdan vakolatli foydalanuvchilar huquqni buzgan uchinchi shaxslarga nisbatan ham, litsenziya shartlarini buzgan shaxsga (shaxsning o‘ziga) nisbatan ham da’vo kiritish huquqiga ega bo‘lishi kerak.

1.6. Nomoddiy ne’matlarning ayrimlari mulkiy tarkibga egaligi e’tiboridan ularni uchinchi shaxslarning tadbirkorlik faoliyatida aktiv sifatida foydalanish imkoniyati qonun doirasida tan olinishi kerakligi asoslantirildi.

1.7. Tasvirdan tijoriy maqsadda foydalanishda obyekt yana ham murakkablashadi. Bunday foydalanishning obyektini **shaxsning obrazi** deb tushunish maqsadga muvofiq, bu esa o‘z navbatida quyidagi tor elementlarga ajratilishi mumkin: **tasvir, identifikatsiyalovchi belgi (indicia)** va **shaxsga oid ma’lumot**. Biroq bu elementlar aslida foydalanilayotgan ichki “aktiv” – ya’ni, **obro‘ (reputatsiya)** – ning jismoniy ko‘rinishdagi shakllari sifatida ham qaralishi mumkin. Chunki obro‘siz – mashhurlik va jamoat orasidagi maqomsiz – tasvirdan iqtisodiy maqsadning birortasida deyarli foydalanilmaydi.

1.8. Internetda yoki boshqa axborot-aloqa tarmoqlarida fuqaroning tasviri e’lon qilingan yoki foydalanilgan bo‘lsa-yu, biroq buni amalga oshirgan shaxs aniqlanmasa, bunday huquqbuzarlik uchun javobgar shaxs deb tasvir joylashtirilgan resurs (sayt, platforma) egasi hisoblanishi kerakligi asoslantirildi. Bunday hollarda resurs egasining aybi tasvirni bevosita e’lon qilishda emas, balki shu resursda axborot joylashtirayotganning shaxsini aniqlash imkonini beruvchi tartib (identifikatsiya tizimi)ni yo‘lga qo‘ymaganida ifodalanadi.

1.9. Jamoat arboblari (mashhurlar) va mashhur bo‘lmagan fuqarolarning tasvirga bo‘lgan huquqlari o‘z mazmuni jihatidan o‘xshash bo‘lsa-da, ularni himoya

qilish darajasi va chegaralari farqlanadi. Mashhurlar jamiyat e'tiborida bo'lgan shaxslar sifatida ko'proq ommaviy axborot vositalarining diqqat markazida turadi, bu esa ularning shaxsiy hayotiga daxldor tasvirlardan foydalanishda jamoatchilik manfaatining mavjudligini asoslaydi. Shu sababli, mashhurlar tasvirining tarqatilishi ayrim hollarda ularning roziligisiz ham huquqiy asosga ega bo'lishi mumkin. Oddiy fuqarolar esa ommaviy qiziqish obyekti bo'lmagani sababli ularning tasvirini tarqatish faqat ularning aniq va ochiq roziligi bilan amalga oshiriladi. Har ikkala toifadagi shaxslar uchun tasvirga daxldor huquqlar shaxsiy nomulkiy huquq sifatida e'tirof etiladi, biroq himoya chegaralari ijtimoiy maqomga qarab turlicha belgilanadi. Shu bois tasvir huquqini muhofaza qilishda **"shaxsiy manfaat"** va **"jamoat manfaatlari"** o'rtasida muvozanatni ta'minlash zarur degan fikrga kelinadi.

1.10. Fuqarolar o'z tasvirining huquqiy himoyasini talab qilayotganda, bu boshqa shaxslarning axborotni erkin olish va tarqatish huquqini cheklamasligi kerak. Shuning uchun shaxsiy va jamoat manfaatlari o'rtasida farqni aniqlash uchun tasvirni e'lon qilgan yoki undan foydalangan shaxsning maqsadiga qarab baho berish lozim. Shaxsiy va jamoat manfaatlari o'rtasida muvozanatni ta'minlash, hamda jamoat joyida suratga olingan fuqaroning roziligi kerak emasligini aniqlash maqsadida asosiy mezonlar ishlab chiqildi.

1.11. Jamoat joyi tushunchasiga ta'rif berish, tasvir huquqini himoya qilishda muhim ekanligini inobatga olib, ushbu tushunchaga quyidagi mualliflik ta'rifimizni taklif etdik: ***"har kim maxsus ruxsatnoma olmasdan, to'siqsiz kirish (bo'lish) uchun ochiq bo'lgan, yoxud fuqarolarning turli ehtiyojlarini qanoatlantirish va umumiy foydalanishi uchun mo'ljallangan, undagi hodisa va voqealarni to'siqsiz ko'rish hamda eshitish mumkin bo'lgan joylardagi uchastkalar, binolar, xonalar, inshootlar, ularning qismlari, shuningdek transport kommunikatsiyalari doimiy, vaqtinchalik va (yoki) davriy xususiyatga ega bo'lishidan qat'iy nazar jamoat joyi hisoblanadi".***

1.12. Fuqaroning tasvirga bo'lgan huquqi muhofazasi uning roziligi bilan bog'liq. Tasvirdan foydalanishga rozilik esa bitim hisoblanib, yuridik tabiatiga ko'ra bir tomonlama, fidutsiar, konsessual, aleator bo'lmagan bitim hisoblanadi. Bunday bitimlarning shakliga nisbatan bitimlarning shakliga oid umumiy qoidalari qo'llanishi maqsadga muvofiq. Shuningdek, ushbu bitimning mazmunida rozilik muddati, oshkor etish va/yoki foydalanishga nisbatan cheklovlar, foydalanishning maqsadi, usullari, tasvirdan foydalanish hududi muhim shart sifatida ko'rsatilishi zarur.

1.13. Shaxsning o'z tasviridan foydalanish va uni oshkor qilishga bergan roziligini qaytarib olishga nisbatan rozilik tekinga berilganda har qanday holatda qaytarib olish mumkinligi, agar bunday rozilik haq evaziga amalga oshirilganda asosli sabablar bo'lgandagini qaytarib olishga ruxsat berilishi kerakligi haqidagi qarash asoslantirildi.

1.14. Shaxsiy hayot daxlsizligi huquqi (***privacy***) tadqiq qilinib, atamaga nisbatan nazariy mezonlar asoslantirildi. Ushbu mezonlarga “avtonomiyaning shaxsiyligi” (***privacy of autonomy***), “joyning shaxsiyligi” (***privacy of space***) va “axborotning shaxsiyligi” (***privacy of information***) kirishi tahlil qilindi.

II. Amaldagi qonun hujjatlarini takomillashtirishga oid tavsiyalar:

2.1. Rivojlangan mamlakatlarning aksarida tasvirga bo‘lgan huquq fundamental huquq sifatida alohida normada muhofaza qilinadi. Misol uchun, Yevropa qit’a huquqi mamlakatlaridan hisoblanuvchi Fransiya, Germaniya, Ispaniya, Italiya mamlakatlari ham o‘z qonunchiligida shaxsiy hayot daxlsizligi va shaxs tasvirini obyekt sifatida belgilab muhofaza qiladi. Shunday ekan, shaxsni o‘z tasviridan turli g‘arazli va noqonuniy maqsadlarda foydalanishdan himoyalash maqsadida novella sifatida Fuqarolik kodeksiga quyidagi yangi normani kiritishni zarur deb bildik.

100^1-modda. Fuqaro tasviriga bo‘lgan huquq

Fuqaroning tasviri – bu tashuvchi vositalar orqali obyektivlashtirilgan ma’lum bir jismoniy shaxsning taniluvchi tashqi qiyofasini qamrab oluvchi axborot shakli.

Fuqaroning tasvirini (shu jumladan, vizual tasvirini, audio tasvirini, yozma tasvirini yoki ushbu moddaning birinchi qismida ta’rifi berilgan axborot shaklini obyektivlashtirishning har qanday usuluni) yaratish, shuningdek uning tasviridan foydalanish uchun ushbu fuqaroning roziligi, agar fuqaro 16 yoshga to‘lmagan voyaga yetmagan yoki muomalaga layoqatsiz deb topilgan bo‘lsa, uning qonuniy vakillari roziligi talab etiladi.

Shaxs vafot etgan taqdirda, agar u hayotligi chog‘ida rozilik bermagan bo‘lsa, rozilik uning vorislari tomonidan beriladi.

Fuqaroni tasvirga tushirish va (yoki) undan foydalanish uchun berilgan rozilik bitim hisoblanib, uning shakliga nisbatan bitimlar shakliga oid umumiy qoidalar qo‘llaniladi.

Tasvirdan foydalanish uchun tekinga rozilik berilganda yoki rozilik berilgan maqsadga nomuvofiq tarzda foydalanilganda yoxud foydalanish shaxsning sha’ni va qadr-qimmatini kamsitgan taqdirda, shaxs tasvirdan foydalanish uchun rozilikni chaqirib olish huquqiga ega. Ushbu sabablarsiz rozilik chaqirib olinganda, tasvirdan foydalanuvchi shaxsdan yetkazilgan zararni qoplashni talab qilishi mumkin.

Fuqaroning tasviridan foydalanish deganda uni tarqatish, qayta ishlash va ommaga e’lon qilish tushuniladi.

Tasvirdan quyidagi hollarda roziliksiz foydalanishga yo‘l qo‘yiladi:

a) tasvirdan quyidagi davlat yoki jamiyat manfaatlari uchun foydalanilganda:

tasvirdan huquqbuzarlikka qarshi kurashish maqsadida, davlat va (yoki) jamiyat xavfsizligiga tahdid soluvchi voqea-hodisalar haqida xabar berishda;

tasvirdagi shaxsning jinoyat sodir etganligi yoki bedarak yo‘qolganligi sababli qidiruv e’lon qilishda;

davlat xizmatchilarining xizmat vazifalarini bajarishi jarayonidagi tasviridan foydalanishda, qonunda belgilangan hollar bundan mustasno;

b) fuqaro ommaviy tadbirlarda (konsert, bayram sayillari va boshqa) va jamoat joylarida tasvirlangan hamda tasvirdan foydalanishdan maqsad faqat ushbu joylardagi umumiy jarayonlarni namoyish etish bo‘lsa;

d) davlat va jamoat arboblari hamda ilm-fan, madaniyat va boshqa sohalar taniqli vakillarining tasviridan jamiyat uchun katta qiziqish uyg‘otadigan axborotni tarqatish maqsadlarida foydalanilganda;

e) fuqaroning haq evaziga tushirilgan tasviridan ushbu tasvirni tushirishdan ko‘zlangan maqsadlarda foydalanilganda;

f) jamoat tartibini saqlash, xavfsizlikni ta’minlash maqsadida videokuzatuv tizimlari orqali shaxslarni tasvirga olish va ushbu maqsadlarda foydalanishda.

Jamoat joylarida (yoki jamoat joylariga qaratilgan obyektlarda) videokuzatuv tizimlari o‘rnatilgan taqdirda, bu haqda aniq va barchaga tushunarli ogohlantiruvchi belgi o‘rnatilishi shart.

Ushbu moddada nazarda tutilgan talablarga rioya etilmagan hollarda, shaxs hamda ushbu moddaning ikkinchi va uchinchi qismlarida ko‘rsatilgan shaxslar tasvirdan foydalanishni to‘xtatishni, uni yo‘q qilishni hamda yetkazilgan moddiy va ma’naviy zararni qoplashni talab qilish huquqiga ega.

Fuqaroning tasviriga bo‘lgan huquqi buzilgan holatlarda fuqaro ma’naviy zararni qoplash o‘rniga huquqbuzarga ushbu Kodeksda belgilangan boshqa himoya va javobgarlik choralaridan foydalanish bilan birga, sud xohishiga ko‘ra belgilanadigan har bir huquqbuzarlik uchun bazaviy hisoblash miqdorining 2 barobaridan 100 barobarigacha bo‘lgan tovon pulini to‘lash talabini qo‘yish huquqiga ega.

Tovon puli miqdorini hisoblashda huquqbuzarlik xarakteri va holatlaridan, jumladan, fuqaroning tasviri noqonuniy ravishda foydalanilgan bosma nashrning nusxasi, kanal auditoriyasi yoki axborot manbaini, tasvirdan foydalanish hajmi, huquqbuzarliklarning takrorligini hisobga olish zarur.

Tasvirdan Internetda noqonuniy foydalanilganda javobgar shaxsni aniqlash imkoni bo‘lmasa, shaxs tegishli domen nomlari reyestirida ko‘rsatilgan, domen nomining administratori bo‘lgan shaxsni javobgar sifatida da’vo qilishi mumkin.

Fuqaro tasvirini aniqlashda qiyinchilik tug‘diradigan shakllarda fuqaroning tasviridan noqonuniy foydalanish munosabati bilan o‘z tasviriga bo‘lgan huquqini himoya qilish uchun murojaat qilgan shaxs, agar aksi isbotlanmagan bo‘lsa, uning tasviri foydalanilgan (tasvirlangan) shaxs deb hisoblanadi.

2.2. Media makoni rivojlangan zamonda shaxsni individuallashtiruvchi nomoddiy ne’matlar va shaxsiy nomulkiy huquqlar iqtisodiy muomalaga aktiv sifatida kiritildi. Ularning iqtisodiy qiymatga ega ekanligi boy xorijiy tajribada qonun normalarida tan olindi. Shunday ekan, shaxsni individuallshtiruvchi shaxsiy nomulkiy huquqlarni begonalashtirish va undan foyda olishga oid qoidani Fuqarolik kodeksining 19-moddasiga qo‘shimcha kiritish orqali belgilashni taklif etamiz. Normani quyidagi beshinchi qism bilan to‘ldirish maqsadga muvofiq bo‘ladi: ***“Jismoniy shaxsning ismi yoki taxallusi boshqa shaxslar tomonidan ushbu shaxsning roziligi bilan ularning ijodiy faoliyatida, tadbirkorlik yoki boshqa iqtisodiy faoliyatda fuqarolarning aynan kim ekanligi haqida uchinchi shaxslarni chalg‘itmaydigan va boshqa shakllarda huquqni suiiste’mol qilmaydigan usullarda foydalanilishi mumkin”.***

2.3. Ommaviy axborot vositalari faoliyati sohasidagi huquqiy munosabatlarni tartibga soluvchi maxsus qonunlarda tasvirni himoya qilish masalalari, maxfiylikni himoya qilishdan farqli o‘laroq aks ettirilmagan, bu tasvirlanganlarning huquqlarini himoya qilishni zaiflashtiradi. Shu munosabat bilan “Jurnalistlik faoliyatini himoya qilish to‘g‘risida”gi Qonunning 6-moddasi ikkinchi qismida ko‘rsatilgan jurnalistning “Jurnalist o‘z kasbiga doir axborotdan shaxsiy maqsadlarda foydalanishi, axborot manbai yoki muallif roziligisiz jismoniy shaxsning shaxsiy hayotiga taalluqli ma’lumotlarni e’lon qilishi, shuningdek audio va video yozish vositalaridan foydalanishi mumkin emas”ligi bilan bog‘liq majburiyatni ***“fuqaro tasviridan foydalanishga va/yoki ularni tarqatishga (jamoat manfaatlarini himoya qilish zaruriyati bundan mustasno) rozilik olish majburiyati bilan mumkinligi”*** haqidagi jumla bilan to‘ldirishni taklif qilamiz.

2.4. Shuningdek, “Axborot erkinligi prinsiplari va kafolatlari to‘g‘risida”gi O‘zbekiston Respublikasi Qonunining 13-moddasi uchinchi qismida keltirilgan normani *“jismoniy shaxsning roziligisiz uning shaxsiy hayotiga taalluqli axborotni qonunchilikni buzib tarqalishining oldini olish” qoidasi* ***“fuqarolik qonunchiligini buzgan holda fuqaro tasviridan foydalanishga yo‘l qo‘yilmaslik”*** jumlasi bilan to‘ldirish taklif etiladi.

2.5. Jamoat manfaatlarini himoya qilish maqsadida, IIO xodimining tasvirini qayd etishga qo‘shimcha cheklovlar o‘rnatish zarur deb hisoblaymiz. IIO xodimining tasvirini to‘g‘ri himoya qilishni ta’minlash maqsadida, “Ichki ishlar organlari to‘g‘risida”gi qonunning 34-moddasiga quyidagi mazmundagi bandni kiritish maqsadga muvofiqdir:

“Ichki ishlar organlari xodimining tashqi qiyofasi yoki boshqa identifikatsiya qiluvchi elementlarining tasvirini noqonuniy maqsadlarda e’lon qilish va undan foydalanish, shuningdek, agar bunday harakatlar xodimning xizmat vazifalarini bajarishiga to‘sqinlik qilsa yoki kelajakda to‘sqinlik qilishi mumkin bo‘lsa, taqiqlanadi. Ushbu talabga rioya qilmaslik O‘zbekiston Respublikasining qonunchiligida belgilangan javobgarlikka sabab bo‘ladi”.

2.6. Radio va teleko‘rsatuv materiallarini saqlashning majburiy muddati yo‘qligi da’vogarning o‘z tasviridan audovizual asarlarda ruxsasiz foydalanish holatlarda sudga darhol dalil talab qilishga majbur qiladi. Sababi, dalillarning qachon yo‘qotilishini oldindan aytib bo‘lmaydi. Shu sababdan, “Ommaviy axborot vositalari to‘g‘risida”gi Qonunning IV bobiga quyidagi mazmundagi yangi moddani qo‘shish taklif etiladi:

“Nizolarni to‘g‘ri hal etishda ahamiyatga ega bo‘lgan dalillarni ta’minlash maqsadida, radio va teleko‘rsatuvlar tahririyati quyidagilarga majbur:

efirga yozuv tarzida uzatilgan o‘z materiallarini saqlab qolishga;

efirga uzatilgan ko‘rsatuvlarni ro‘yxatga olish jurnalida qayd etishga.

Ro‘yxatga olish jurnalida quyidagi ma’lumotlar ko‘rsatiladi: efirga uzatilgan sana va vaqt, ko‘rsatuv mavzusi, muallifi, boshlovchisi va ishtirokchilari.

Saqlash muddatlari quyidagicha belgilanadi:

ko‘rsatuv materiallari — efirga uzatilgan kundan boshlab kamida uch oy;

ro‘yxatga olish jurnali — undagi oxirgi yozuv sanasidan boshlab kamida bir yil.

Efirga uzatilgan radio va teleko‘rsatuvlarning saylovoldi tashviqoti yoki referendumga oid tashviqotni o‘z ichiga olgan audio va video yozuvlari, tegishli tele- va/yoki radiouzatuvchi tashkilot tomonidan kamida 12 oy (bir yil) davomida saqlanishi lozim. Tele- va/yoki radiouzatuvchi tashkilotlar mazkur radio va teleko‘rsatuvlar nusxalarini saylov komissiyalari va referendum komissiyalari talabiga binoan bepul taqdim etishlari shart”.

III. Huquqni qo‘llash amaliyotini takomillashtirishga oid tavsiyalar:

3.1. Tasvir muhofazasi bilan bog‘liq Fuqarolik kodeksiga taklif etilayotgan norma qonunchilik va sud amaliyoti uchun yangilik bo‘lgani boisidan uni amaliyotda qo‘llashga oid tushuntirishlarni Oliy Sudning Plenum Qarorlaridan biriga bandlar sifatida kiritish lozim, – degan xulosaga kelindi va loyiha ishlab chiqildi. Bu, o‘z navbatida, sudlar tomonidan tasvirga bo‘lgan huquq bilan bog‘liq da’vo ishlari ko‘rib chiqilayotganda, ularning adolatli, asoslangan hal qiluv qarorlarini chiqarishiga zamin yaratadi. Ushbu hujjatda tasvirga bo‘lgan huquqqa oid masalalar, xususan, tasvir tushunchasiga ta’rif, uning huquqiy belgilari, himoya usullari, uni himoya qilish yo‘llari, tasvirdan shaxs roziligisiz foydalanish mumkin bo‘lgan holatlar bilan bog‘liq masalalar ko‘rsatilishi lozim, deb hisoblaymiz.

3.2. Ommaviy shaxslarni sud amaliyoti uchun bizda ham guruhlarga bo‘lish taklif etiladi. Bular davlat amaldorlari, to‘liq ommaviy shaxslar hamda nisbiy (cheklangan) ommaviy shaxslardir. Shuningdek, ushbu toifalarning tasvir bilan bog‘liq huquqlari himoya qilinayotganda ham axborot erkinligi bilan shaxsiy huquq o‘rtasidagi muvozanatni saqlash uchun alohida qoidalar qo‘llanilishi lozim. Shunda, davlat amaldorlarining tasvirlari o‘zlarining xizmat vazifalari davomida, rasmiy bo‘lishidan qatiy nazar, ularning roziligisiz jamiyatga axborot berish maqsadida tushirilishiga va foydalanilishiga yo‘l qo‘yiladi. Bundan, shaxsiy hayot daxlsizligi

bilan bog‘liq hamda tijorat maqsadida tasvirdan foydalanish mustasnodir. To‘liq ommaviy shaxslarning tasvirlaridan ham notijorat maqsadida hamda shaxsiy hayot daxlsizligini buzmaslik sharti bilan ularning roziligisiz foydalanishga yo‘l qo‘yiladi. Cheklangan ommaviy shaxslar tasvirlari esa ularni jamiyatga mashhur qilgan (tanitgan) hodisa bilan birga axborot maqsadida roziligisiz tushurilishiga va foydalanishiga yo‘l qo‘yiladi. Axborotdan boshqa maqsadlarda hamda ularning mashhurligi bilan bog‘liq holatdan boshqa vaziyatlarlarda tasvirlaridan foydalanish uchun rozilik talab etiladi.

SCIENTIFIC COUNCIL No DSc.07/30.12.2019.Yu.22.01 FOR AWARDING SCIENTIFIC DEGREES AT TASHKENT STATE UNIVERSITY OF LAW

TASHKENT STATE UNIVERSITY OF LAW

KORYOGDIEV BOBUR UMIDJON UGLI

IMPROVING THE CIVIL – LEGAL REGULATION OF IMAGE RIGHTS

12.00.03. – Civil law. Business Law.
Family Law. International Private Law

ABSTRACT
of doctoral (Doctor of Philosophy) dissertation on legal sciences

Tashkent – 2025

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The dissertation is available at the Information-Resource Center of Tashkent State University of Law (registered under №1435), (Address 100047, Tashkent city, A.Timur Street, 13. Phone: (99871) 233-66-36).

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(Registry protocol № 94 on October 20, 2025)

O'ZBEKISTON RESPUBLIKASI ADLIYA VAZIRLIGI TOSHKENT DAVLAT YURIDIK UNIVERSITETI

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INTRODUCTION
(annotation of the dissertation of Doctor of Philosophy (PhD))

Relevance and necessity of the dissertation topic. In the world over the past decade, the development of computers and other devices, means of communication, software, information and communication networks has significantly increased the possibilities of using the image of citizens of society. Along with these achievements, the declining role of the citizen in controlling the right of third parties to use personal images is considered a disadvantage. Also, in the modern digital age, images of individuals are freely distributed on global networks, and the problems of managing them have become one of the issues of everyday life. In the decisions of the European Court of Human Rights, the image is recognized as one of the main attributes of personality, and it is emphasized that the use of such images should be linked to the consent of the person. In particular, in the 2012 court case "von Hannover v. Germany", the European Court of Human Rights noted that the publication of photographs or videos about individuals requires their consent. Thus, international practice shows that the issues of ensuring the rights to private life and honor, including the "right to an image", are a priority.

In the world, methods of incorrectly placing a face in another video and image (***deepfake***) using artificial intelligence have become widespread. Studies show that more than *60% of consumers*[1] reported watching at least one deepfake video last year. Such technologies can not only spread false information, but also seriously damage a person's honor and reputation. For example, in 2023, financial fraud using deepfake *increased by 3,000%*[2]. At the same time, facial recognition technologies have become popular internationally. For instance, companies like Clearview AI have been revealed to have over *30 billion images*[3] in their facial databases collected from several countries. The misuse of such public databases and widespread surveillance cameras poses a serious threat to the privacy of citizens. In turn, the European Union and other countries are beginning to regulate these technologies, establishing data protection laws and protective measures through legislation on artificial intelligence (hereinafter **AI**). These global trends make the issue of the right to the image of personality highly relevant not only within national borders, but also at the international level. This, in turn, indicates the need for scientific and theoretical research on issues of civil law consideration of the protection of the right to images and the development of liability measures that ensure the universality of protection.

In Uzbekistan, the Concept for Improving Civil Legislation approved by the Decree of the President of the Republic of Uzbekistan dated April 5, 2019 №. R-

[1] The results are based on the 2024 Online Identity Study conducted by Jumio, a company that provides an online identification and e-KYC (Know Your Customer) platform. This platform utilizes technologies such as artificial intelligence, biometrics, machine learning, and liveness detection. https://eftsure.com/statistics/deepfake-statistics/#source-wrapper (date of access: 12.05.2025).

[2] The figures were obtained from a report published in 2023 by Onfido, a London-based company specializing in ID verification. https://www.entrust.com/products/identity-verification (date of access: 12.05.2025).

[3] Clayton, J., & Derico, B. (2023, March 28). Clearview AI used nearly 1m times by US police, it tells the BBC. BBC News. https://www.bbc.com/news/technology-65057011 (date of access: 20.08.2024).

5464, sets the task of reliably protecting the right to the image of a person. Nevertheless, the privacy rights in relations related to the use of images of persons is limited due to the lack of mechanisms for its implementation. In the current civil legislation, the right of a person to their image (image rights) as a separate independent object is not perfectly regulated. While Article 99 of the Civil Code lists *"the right to a name, the right to an image, copyright, and other personal non-property rights"* among a person's non-property rights, it does not establish clear mechanisms for the content and protection of these rights. In many cases, the issue of unauthorized publication and use of a person's image is based on random explanations[4]. Therefore, in the context of Uzbekistan, the problem of civil law regulation of this right is relevant, and there is a need to specify it with separate normative norms. Issues related to the images of citizens, especially taking into account practical situations, are not sufficiently developed in the legislation and legal doctrine of Uzbekistan, which, in turn, hinders the development of the rights to documentation, the protection of the right to a violated image, and the inviolability of private life. In foreign countries, the following legal doctrines apply to the civil law regulation of relations related to the right to images: "***Image right as a subset of personality***", ***"Image as a property right doctrine"***, ***"privacy right doctrine", "moral right doctrine", "Doctrine of the protection of the image as personal data"*** (***data protection***). Among the approaches, one of the main issues considered in the study is the justification of the regime that ensures the relative universality of the protection of the right to images in the theory and legislation of our country, the adaptation of existing regulatory legal acts to international norms and principles, strengthening its place as a balanced and flexible regulatory legal framework, as well as the need to propose innovative solutions.

This research also serves to a certain extent to ensure the implementation of the Civil Code of the Republic of Uzbekistan (1995, 1996), the Laws of the Republic of Uzbekistan "On Protection of Journalistic Activity" (1997), "On Informatization" (2004), "On Mass Media" (2007), "On Personal Data" (2019), "On Advertising" (2022), the Decree of the President of the Republic of Uzbekistan dated April 5, 2019 No. R-5464 "On Measures to Improve Civil Legislation" and other legislative acts in this area.

The relevance of the research to the priority areas of development of science and technology in the country. The dissertation research was carried out on the basis of the priority direction of transforming the principles of justice and the rule of law into the most fundamental and necessary condition for development in our country, defined in Section II of the Development Strategy of New Uzbekistan for 2022-2026, which provides for the development of science and technology in the republic.

Level of study of the problem. There is no work carried out by national scientists on a comprehensive study of legal relations and legal problems directly related to the image of a citizen. However, within the framework of some issues of

[4]https://www.kun.uz/news/2020/01/15/ozbekistonda-fuqaroning-foto-tasviridan-uning-ruxsatisiz-foydalanish-mumkinmi#:~:text=Biroq%2C%20milliy%20qonunchilikda%20fuqaroning%20tasvirga,huquqi%20daxlsizligi%20chegaralari%20aniq%20belgilanmagan (date of access: 08.03.2024).

civil law regulation of personal non-property rights, the citizen's image right has been studied as an intangible object. In particular, Academician Kh.Rakhmonkulov, Professor I.Zokirov, Professor O.Okyulov, N.Imomov published a number of scientific works reflecting the issues and problems of such rights as personal rights, dignity, inviolability and their protection, compensation for moral damage caused as a result of violation of human personal rights[5].

Among civil law research, the research of I.Nasriyev, T.Umarov, A.Hasanov, A.Kholmatov, Kh.Paluaniyazov, R.Khonnazarov, I.Yakubova on personal non-property rights deserves special attention[6].

Among foreign scientists, A.V.Zavadsky, K.B.Yaroshenko, I.A.Pokrovsky, E.A.Fleishits, M.N.Maleina, L.O.Krasavchikova, A.A.Nikolaeva, A.M.Erdelevsky, E.P.Gavrilov, S.P.Grishaev, A.M.Zinin, I.V.Vorobyova, D.G.Durnaykin, V.A.Mikryukov, A.V.Ivanov, as well as research scientists from the European Union and English law countries J. Barta, R. Markiyewicz, A. Matlak, R.Moosavian, D.Mangan, S.Ch.Ekaratne, T. Fricke, K. Stefaniuk, Hugo Keysner and Lauriye Propolis studied some issues related to the right of an individual to their image[7]. The theoretical ideas and conclusions presented in these studies on the issues of a citizen's image right are still relevant today.

Connection of the dissertation research with the plans of scientific research work. The dissertation work is included in the research work plan of the Tashkent State University of Law and was carried out within the framework of the priority areas of scientific research.

The purpose of the research is to deeply study the rights of citizens to images as an object of civil law from a theoretical and practical point of view, to determine the essence of this right, to develop effective mechanisms for its legal protection, and to develop proposals and recommendations for regulating legal relations arising in cases of unauthorized use of images.

The research objectives are as follows:

Analysis of the historical narrative of image law enforcement and existing theoretical approaches;

Determination of the theoretical foundations for evaluating the image as an object of civil law;

Comparative analysis of the peculiarities of the protection of image rights;

Studying and solving legal problems of the use of images in print publications (in the genre of parody or caricature);

Civil law regulation of relations related to image comodification;

Legal regulation of the use of a person's image on the Internet in the context of the development of information and communication technologies;

Study and assessment of the effectiveness of civil law protection measures applied in case of violation of the right to an image;

Study of restrictions applied to maintain a balance between public and private interests;

[5] A complete list of these scholars' works is provided in the bibliography of the dissertation.
[6] A complete list of these scholars' works is provided in the bibliography of the dissertation.
[7] A complete list of these scholars' works is provided in the bibliography of the dissertation.

Development of proposals and recommendations aimed at the effective protection of citizens' right to images, including the submission of scientifically based proposals for amendments and additions to the current legislation.

The object of the research is legal relations related to the civil law regulation of the image right.

Subject of the dissertation research. The subject of the research includes the study of the norms of civil legislation, international law and the national legislation of some foreign countries, as well as theoretical and practical scientific developments, materials of judicial practice on the use, protection and defense of the image of a citizen, regulating civil law relations arising from the use of the image of a citizen, in force on the territory of the Republic of Uzbekistan.

Research methods. The research used a complex of theoretical and empirical methods, including the historical-legal, comparative-legal, formal-legal, system-analytical, dialectical methods, the method of analysis and synthesis, the method of normative-legal and practical analysis, generalization, logic, analysis of law enforcement and judicial practice.

The scientific novelty of the research is as follows:

the necessity of obtaining consent for the filming and use of a person, the fact that persons who have reached the age of 16 can be independent subjects in giving consent, and the existence of cases when the use of images is possible without consent, taking into account the interests of the public and the state, is substantiated;

it was analyzed that the right to an image entails the task of ensuring a balance at the intersection of personal and public interests, and it was substantiated that consent is not required when using images of well-known representatives of science, culture, and other fields for the purpose of disseminating information of great interest to society;

the inadmissibility of collecting, storing, disseminating, and using any information about a citizen's private life, including information about their origin, place of residence, personal and family life, without their consent is substantiated;

strengthening responsibility for the dissemination of photo and (or) video images of law enforcement officers, leading to their discrediting.

Practical results of the study are as follows:

It was revealed that the current legislation does not fully and clearly define the legal status of the image of a person, the measures of civil liability for violation of this right are not clearly indicated, and the need to introduce an independent norm related to the image of a person into the Civil Code of the Republic of Uzbekistan was substantiated;

The need to clarify the resolution of disputes regarding the use of images of citizens for the purpose of advertising products, creating a brand, or obtaining other income without their consent was substantiated, and it was proposed to develop mechanisms for regulating relations related to the commercialization of image rights;

Legal boundaries for the use of images of citizens in information technologies and social networks have been established;

Due to the need to develop a unified approach to the consideration of claims

related to violations of the right to images in judicial practice, a draft resolution of the Plenum of the Supreme Court related to the right to images has been developed.

Reliability of the research results. The reliability of the research results is explained by the fact that the methods used in the work, the theoretical approaches used within its framework were obtained from official sources, international experience and national legislation were mutually analyzed, conclusions, proposals and recommendations were implemented in practice, and the results obtained were confirmed by competent structures.

Scientific and practical significance of the research results. The theoretical significance of this dissertation research lies in the fact that the scientific conclusions, proposals, and recommendations developed in it enrich existing theoretical views on the in-depth analysis of legal relations related to the image of citizens and their legal regulation. The research results also create a solid theoretical basis for a deeper study of the institution of using images reflecting the individual image of a citizen, improving existing concepts, and developing legal norms in this area. The scientific ideas arising from the research serve as a scientific illumination of legal relations related to the image of citizens and serve as a basis for further research.

The practical significance of the research lies in the fact that the proposals and recommendations put forward in it make it possible to improve the current legislation, systematically regulate legal relations related to the use of images of citizens. In particular, the use of a citizen's image will be carried out on a contractual and legal basis, improving the mechanisms for protecting images, as well as taking practical measures to protect the personal and property interests of citizens. In addition, the research results are of practical importance in attracting images of citizens to commercial circulation, forming an image market, reasonably determining the amount of compensation, and promptly and fairly resolving disputes in this area. In addition, the research results can be used in the creation of textbooks and teaching aids, lecture texts, and curricula for the modules “Mass Media Law” and “Privacy Law”, which are now developing in the Republic.

Implementation of research results. Based on the results of the conducted research on the civil law regulation of the right to an image:

The proposal on the protection of the image of a citizen is reflected in the first part of Article 109 of the draft Civil Code of the Republic of Uzbekistan in a new edition, developed on the basis of the Concept for Improving the Civil Legislation of the Republic of Uzbekistan, approved by the Decree of the President of the Republic of Uzbekistan dated April 5, 2019 No. R-5464 (Act No.8/0010-02 of the Legislative Department of the Ministry of Justice of the Republic of Uzbekistan dated July 22, 2025). The implementation of this proposal served to create a legal basis for the protection of image rights, as well as to regulate the use of personal images;

The proposal that consent is not required when using images of famous representatives of science, culture and other fields for the purpose of disseminating information of great interest to society is reflected in the second paragraph of the third part of Article 28 of the draft Civil Code of the Republic of Uzbekistan in the

new edition (Act No. 8/0010-02of the Legislative Department of the Ministry of Justice of the Republic of Uzbekistan dated July 22, 2025). This proposal served to protect the rights of public figures and celebrities to images in a special regime and to ensure freedom of information;

The proposal on the procedure for using information related to the private life of a citizen is reflected in the first and second parts of Article 110 of the draft Civil Code of the Republic of Uzbekistan in the new edition (Act No. 8/0010-02 of the Legislative Department of the Ministry of Justice of the Republic of Uzbekistan dated July 22, 2025). The implementation of this proposal served the civil law protection of a citizen's private life;

The proposal on administrative responsibility for the dissemination of photo and (or) video images of law enforcement officers in a way that leads to their discrediting is reflected in Article 195^2 of the Code of the Republic of Uzbekistan on Administrative Responsibility (Act No. 27/2-158-25 of the Department for Analysis of Problems of Ensuring Legality and Law Enforcement of the General Prosecutor's Office of the Republic of Uzbekistan dated July 17, 2025). The implementation of these proposals served to strengthen the protection of personal non-property rights of law enforcement officers by improving the legal framework for the effective protection of their rights to images.

Approbation of the research results. The research results were discussed at 4 scientific and practical conferences, including 2 international and 2 republican.

Publication of research results. A total of 11 scientific works have been published on the research topic, including 5 articles (3 in foreign publications) in publications recommended by the Higher Attestation Commission for the publication of the main scientific results of the dissertation.

Structure and volume of the dissertation. The dissertation consists of an introduction, three chapters consisting of nine paragraphs, a conclusion, a list of references and appendices. The volume of the dissertation is 153 pages.

MAIN CONTENT OF THE DISSERTATION

The introduction of the dissertation highlights the relevance and necessity of the research topic, the goals and objectives, object and subject of the research. Also, a review of foreign scientific research on the topic of the dissertation, its compliance with the priority directions of the development of science and technology of the republic, the degree of study of the problem, the connection of the topic with the research work plan of the higher educational institution where the dissertation was carried out, methods, scientific novelty and significance were analyzed. In addition to the above, information is provided on the implementation of the research results into practice, published works, and the structure and volume of the dissertation.

The first chapter of the dissertation, entitled **"General Characteristics of the Citizens' image right"** analyzes the historical experience of legal protection of the image of a person, legal approaches to it, the legal nature of the image of a citizen, its classification as an intangible object, and the features of this legal protection in Uzbekistan and foreign countries. Before regulating social relations and assessing

the necessity of related law, it is important, first, to clearly understand the practice associated with this law. In the first chapter, the main goal of the dissertation is the study of current practice related to the right to images. For this, firstly, doctrinal approaches of image rights are considered.

The researcher examines scientific approaches related to image right as an object of civil law (seeing the image right as a subset of personal non-property right (***Publicity as a subset of personality rights***) (H.Rahmonkulov, I.Zokirov, I.Nasriyev, I.Yakubova, B.Smith, E.Logeais, A.Nikolayeva, L.Krasavchikova), viewing the right to an image as property (***Publicity as property***) (M.B.Nimmer, Jerome Frank, Mc.Carthy), "Unauthorized use of personality" (***Appropriation of personality***) (Justice Estey, D.Vaver, R.Howel), its protection within the framework of the right to privacy (***Privacy rights doctrine***) (S. Warren, L.Brandeis), protection as copyright (***Moral rights doctrine***) (A.Zavadskiy, A. Matlak) and theories of protection as personal information, and substantiates that for Uzbekistan, it is advisable to protect the right In this approach, personal non-property rights (including the right to an image) are inextricably linked with the owner, recognizing a person as a physical and spiritual being and guaranteeing the right to feel their existence. Therefore, according to this approach, personal non-property rights are considered the fundamental rights of every person and do not alienate them. The monistic model is used as an alternative to the dualistic model in the continental approach, and its content is determined by the fact that one common personal non-property right (i.e., general personality right) simultaneously protects both moral (dignitarian) and economic (economic) interests.

This chapter also summarizes opinions of national scientists I.Zokirov, O.Okyulov, A.Hasanov, I.Nasriyev, foreign lawyers J. Barta, R. Markiyewicz, A. Matlak, M.N.Maleina, L.O. Krasavchikova, A.A.Nikolayeva, and in order to improve the protection of image rights within the framework of the law and its correct application in practice, it is justified that it should be classified as an exclusive personal non-property right.

The second chapter of the dissertation is devoted to **"Problems of legal regulation of the use of image rights"**. It examines the use of images of citizens created in printed materials, audiovisual works, as well as in the genre of *"parody"* or *"caricature"*, the commercialization of image rights, and the legal basis for their use on the Internet.

According to the researcher's observations, in the era of globalization and technological development, the scale of inappropriate use of personality images has significantly increased. In this case, for the development of mechanisms for protecting the subjective right of the individual, it is important not only to analyze the evidence of the offenders, but also to analyze and give a legal assessment of the most common methods of misuse of images of citizens, as well as to conduct a comparative study of the circumstances that preclude the protection of the right to images. Among the cases studied, it became clear that the inappropriate use of images in printed materials, audiovisual works, commercial goods, and the Internet is quite common. Various objective and subjective factors are analyzed as reasons for this.

It is in this chapter that the researcher also considered the theoretical views on the commercial use of the person's image. From a theoretical point of view, there are two main approaches to the commercialization of image rights, the first approach is the personal-legal approach (personalistic), according to which the right to images is directly related to the inviolability of private life and its transformation into a commercial tool is considered a violation of human rights, the second approach is the economic-legal approach (utilitarianism), according to this theory, the image of a person can be considered as intellectual property, and the idea that obtaining commercial income through ownership of it is a natural right has been thoroughly studied. As a conclusion of the approaches, it was analyzed that in order to commercialize the right to an image in the practice of Uzbekistan, it is necessary to transition to an economic legal doctrine, and for the implementation of comodification, it is necessary to reflect in civil legislation the norm on the possibility of economic use of the image and the possibility of applying such mechanisms as contract, inheritance, and commercialization based on collective management.

The second plan of the chapter clarifies the practice of using an image for commercial purposes, and expresses the subject of such use in the following three directions:

I. *Use in the mass media for informational purposes;* ***II.*** *Use for advertising or promotion of goods;* ***III.*** *For merchandising purposes - the use of a person's image as a depiction on the products themselves or as an object of use.*

Since advertising is the most widespread among commercial directions, the scientific and practical aspects of using images for such purposes have been thoroughly studied. Having analyzed the legislation on advertising in Uzbekistan, it was concluded that the consent of the person is always required for the use of images in advertising, and such a rule is uniform not only in the legislation of our country, but also in the legislation of other countries. In addition, the conflict of public law rules regarding advertising with private law rules related to the right to images was also investigated, and the views of the Russian scientist M.N. Malein in this regard were considered separately.

Within the framework of the third outline of the second chapter, legal issues related to the use of a person's image on the Internet were discussed. In particular, among the problems inherent in cases of using images of citizens on the Internet are: ***1)*** *collecting evidence that sufficiently proves the fact of using a citizen's image on the Internet without their consent,* ***2)*** *identifying the subject to be held liable;* ***3)*** *the inclusion of images in the digital environment (such as an avatar, token, NFT) into the scope of image rights.* The plan is devoted to a broader analysis of these three problems in the following places. As a solution to the aforementioned problems, a theoretical proposal was substantiated that if a citizen's image is published or used on the Internet or other information and communication networks, but the person who committed this act cannot be identified, the owner of the resource (site, platform) where the image is posted should be held responsible for such an offense. Furthermore, the current Civil Code lacks specific regulations regarding the use of citizens' images on the Internet. Due to the absence of such norms in other legislative

acts, a proposal was put forward to incorporate into the legislation a provision requiring the plaintiff to seek removal of images distributed without the person's consent from the Internet, as well as to halt or prohibit the further distribution of these images.

The third chapter of the dissertation is entitled **"Issues of protecting a citizen's violated right to an image"**, in which the peculiarities of protecting the right to an image in Uzbekistan, the protection of the right to an image in foreign countries, the reasons for excluding protection, and the prospects for improving civil liability measures applied in case of violation of this right are studied from a scientific-theoretical and practical point of view. The first plan of the chapter examines the peculiarities of the existing legislation and judicial practice in Uzbekistan on the protection of the right of a person to an image. According to the dissertation author, although the current Civil Code does not provide for the right of direct image as an independent right, it can be interpreted as an integral part of personal non-property rights. The experience of judicial practice shows that in the current legislation, the procedure for protecting this right from violation is expressed in a vague and general manner, which leaves a wide range of interpretations for judicial bodies. Therefore, there is a need for regulatory and legal consolidation of the right to an image as an independent right.

The second plan studies that image protection is also not absolute and some exceptions take into account public interests as a limitation. In particular, in most countries that protect the right to an image by their legislation because of separate norms, although the content of the rules is different, there is a commonality in the fact that a person's right to their image is protected at the expense of the need to obtain their consent. However, obtaining consent, like other rules, is not without exceptions. Despite a number of controversies, legal systems have concluded that it is possible not to require a person's consent to obtain and publish an image of a person in order to maintain a balance between public and private interests. Therefore, in this chapter, foreign experience in this area is studied, and it is proposed to include cases where the use of a person's image without consent is possible as an addition to the proposed special article on the protection of image rights.

The researcher also substantiates that in the plans of the third chapter, the image can be used without consent to maintain a balance between public and private interests in order to combat offenses, when reporting events that threaten the security of the state and (or) society; when announcing a search for the person in the image due to the commission of a crime or disappearance; when using the image of civil servants in the process of performing their official duties, there are specific conditions for such a restriction of the right to the image.

In addition, the dissertation candidate, in view of the freedom of speech, information, and the social necessity of cultural exchange of citizens, proposes that consent is not required if the citizen is depicted at public events (concerts, festive parties, etc.) and in public places, and the purpose of using the image is only to demonstrate the general processes in these places; when the image of state and public figures and well-known representatives of science, culture, and other fields is used

for the purpose of disseminating information of great interest to society; when a citizen's paid image is used for the purposes of using this image.

The third plan of the chapter analyzes the measures of civil liability applied in case of violation of rights to images, and substantiates that the current means of compensation for moral damage, recognition of rights, and prevention of violations of rights are insufficiently effective. In some cases, when protecting an image distributed without the consent of the person, it is impossible to identify the person responsible, which complicates the elimination of the consequences of the violation of the right, therefore, the author proposes to involve domain administrators as subsidiary defendants when bringing defendants to civil liability, when it is impossible to determine their identity, to introduce compensation as an alternative measure of liability along with moral damage, to introduce a ***"hypothetical license fee"*** using the construction of unjustice enrichment to protect the economic aspect of the image of a person, to strengthen the status of consent agreements as a contract, as well as to establish a special procedure for preventing actions that violate the right to an image on the Internet.

CONCLUSION

The following proposals and conclusions were made regarding the theoretical and comparative study of a person's image right in the legislation of Uzbekistan:

I. Proposals and conclusions aimed at improving the theory of civil law:

1.1. Based on the theoretical and practical experience of foreign countries, the concept of the image right and its legal nature are defined as follows: "**The image right** is the right of a person to control and restrict the use of his image (i.e., a photograph, video, portrait, or any other image)". Describing the legal nature of a person's image as an intangible asset, we can characterize it as follows: according to its function, *it is an asset that identifies a person;* in terms of the object of legal influence, *it is not a non-property right*, but rather *an intangible asset;* regarding its method of origination, *it is an intangible asset that arises based on legal norms;* and in terms of the presence or absence of property composition, *it belongs to the group of intangible assets that possess a property component.*

1.2. In modern civil law theory, various approaches to the image right have been extensively studied. These include: treating the image right as a type of personal non-property right ***(publicity as a subset of personal rights),*** considering the right to one's image as property ***(publicity as property)***, addressing ***"unauthorized use of personality"***, protecting it within the scope of ***privacy rights***, safeguarding it as a ***moral rights doctrine***, and defending it as ***personal data***. For Uzbekistan, considering the family structure, legal system, and socio-economic conditions, it has been substantiated that protecting the image right as a **personal non-property right** through a **monistic model** is the most appropriate approach.

1.3. The image right, like other subjective rights, has such structural elements as subject, object, and content. In this case, it is important to determine the boundary that the image covers from the point of view of the object. For this reason, having studied spelling dictionaries and legal literature, we proposed the following legal

definition of the image of a citizen: **"The image of a citizen is a form of information that covers the recognizable appearance of a certain individual, objectified by means of media".**

1.4. To determine the scope of image rights and to practically simplify the problem of identifying a person, the methods of image reflection and the forms that are their result were investigated. Ultimately, it was substantiated that the image of a person can be reflected through *visual, audio, "artistic mask", written, and "body art"* methods. In this way, the views on the traditional narrow understanding of its scope in the protection of image rights were rejected.

1.5. In order to improve the protection of the right to an image within the framework of the law and its correct application in practice, it is necessary to classify it as an exclusive personal non-property right as follows:

(i) the right should come into existence on the birth of the individual, with no prerequisite of registration or other formality;

(ii) the right should endure for the life of the individual;

(iii) the right should be inalienable during life, such that it can be licensed but not assigned;

(iv) post mortem transmission and subsequent transfer should however be possible, subject to a qualifying registration during life;

(v) freedom of expression should operate to permit use which would otherwise be unauthorised;

(vi) types of unauthorized use of the right to an image should include the use for personal purposes, use for state and public interests, fair dealing, use to reflect general processes at public events or public places, recording of persons through video surveillance systems for the purpose of maintaining public order, ensuring security, and the use for these purposes. This is necessary so as not to unreasonably restrict the use of the image for cultural and communicative purposes;

(vii) the available remedies for unauthorised use should look to prevent such use by way of interdict, as well as compensating for wrongful use;

(viii) compensatory awards should reflect the dignitarian and economic interests that are relevant in publicity, through financial compensation and non-monetary remedies;

(ix) where no quantifiable financial loss can be shown, the courts should be able to look to unjustified enrichment, to award a notional licence fee;

(x) authorised users should have remedies against either the individual for breach of licence or unauthorised users for breach of the right.

1.6. Due to the fact that some intangible assets have a *property structure*, the possibility of their use as *an asset in the entrepreneurial activity* of third parties should be recognized within the framework of the law.

1.7. The object becomes more complex when using the image for commercial purposes. It is advisable to understand the object of such use as **the figure of a person**, which, in turn, can be divided into the following narrow elements: *image, identification mark (indicia),* and *personal information*. However, these elements can also be considered as physical forms of internal "***assets***" - that is, ***reputation*** - that are actually being used. Because without *prestige - fame and public status* - the image is rarely used for any economic purpose.

1.8. It is substantiated that if a citizen's image is published or used on the Internet or other information and communication networks, but the person who committed it is not identified, the owner of the resource (site, platform) where the image is posted should be considered the person responsible for such an offense. In such cases, the fault of the resource owner lies not in directly publishing the image, but in failing to implement a procedure (identification system) that enables the identification of individuals posting information on their resource.

1.9. Although the rights of public figures (celebrities) and ordinary citizens to their images are similar in content, the degree and limits of their protection differ. Celebrities, as individuals attracting public attention, are more frequently in the media spotlight, which justifies the existence of public interest in using images related to their private lives. Therefore, the distribution of images of celebrities in some cases can have a legal basis even without their consent. Since ordinary citizens are not objects of public interest, the dissemination of their images is carried out only with their explicit and clear consent. For both categories of individuals, rights related to one's image are recognized as personal non-property rights; however, the limits of protection are determined differently depending on social status. Consequently, it is believed that it is necessary to ensure a balance between ***"personal interest"*** and ***"public interest"*** when protecting image rights.

1.10. When citizens demand legal protection of their image, it should not restrict other individuals' right to freely obtain and disseminate information. Therefore, to distinguish between personal and public interests, it is necessary to evaluate the purpose of the person who published or used the image. Key criteria have been developed to ensure a balance between personal and public interests, as well as to determine that a citizen's consent is not required for photographs taken in public places.

1.11. Considering the importance of defining the concept of a public place in protecting image rights, we propose the following author's definition for this concept: **"A public place is considered to be any area, building, room, structure, or part thereof, as well as transportation infrastructure, regardless of whether it is permanent, temporary, and (or) periodic in nature, where anyone can enter (be present) without obtaining special permission, or which is intended to meet various needs and for general use by citizens, and where events and occurrences can be freely seen and heard".**

1.12. The protection of a citizen's right to an image is connected with their consent. Consent to the use of the image is considered a transaction and, by its legal nature, is a unilateral, fiduciary, consensual, non-aleator transaction. Regarding the form of such transactions, it is advisable to apply the general rules regarding the form of transactions. Also, the content of this agreement must specify the term of consent, restrictions on disclosure and/or use, the purpose, methods of use, and the territory of use of the image as an essential condition.

1.13. The view was substantiated that a person's consent for the use and disclosure of their image can be withdrawn in any case if it was given free of charge. However, if such consent was granted for a fee, withdrawal should be permitted only if there are valid reasons.

1.14. The right to privacy **(privacy)** has been studied, and theoretical criteria for the term have been substantiated. These criteria include **the privacy of autonomy**, **the privacy of space**, and **the privacy of information**.

II. Recommendations for improving current legislation:

2.1. In most developed countries, the right to an image is protected by a separate norm as a fundamental right. For example, countries such as France, Germany, Spain, and Italy, which are considered continental European law countries, also protect the inviolability of private life and the image of a person as an object in their legislation. Therefore, in order to protect a person from the use of their image for various malicious and illegal purposes, we considered it necessary to introduce the following new norm into the Civil Code as a novella.

Article 100[1]. Image rights

A citizen's image is a form of information encompassing the recognizable external appearance of a specific individual, objectified through various means of transmission.

To create or use a citizen's image (including visual, audio, written, or any other method of objectifying the information form defined in the first part of this article), the consent of the citizen is required. If the citizen is under 16 years old or declared legally incapacitated, the consent of their legal representatives is required.

In the event of a person's death, if they did not give consent during their lifetime, consent is given by their heirs.

Consent to capture and (or) use a citizen's image is considered an agreement, and general rules regarding the form of agreements apply to its form.

A person has the right to withdraw their consent for image use if consent was given for free, if the image is used inconsistently with the purpose for which consent was granted, or if the use degrades the person's honor and dignity. If consent is withdrawn without these reasons, the image user may demand compensation from the person for damages incurred.

Use of a citizen's image is understood as its distribution, processing, and public disclosure.

Use of the image without consent is permitted in the following cases:

a) when using the image for state or public interests:

to combat offenses, to report events threatening state and (or) public security;

to declare a search for the depicted person due to committing a crime or disappearing without a trace;

when using images of civil servants performing official duties, except in cases established by law;

b) when a citizen is depicted at public events (concerts, holiday festivities, etc.) and in public places, and the purpose of using the image is only to demonstrate the general proceedings in these places;

d) when using images of state and public figures, as well as prominent representatives of science, culture, and other fields, to disseminate information of great public interest;

e) when using a paid photograph of a citizen for the purposes for which it was taken;

f) when filming and using images of persons through video surveillance systems for the purposes of maintaining public order and ensuring security.

When installing video surveillance systems in public places (or in objects facing public places), a clear and universally understandable warning sign must be installed.

In case of non-compliance with the requirements provided for in this article, the person and the individuals specified in parts two and three of this article have the right to demand termination of image use, its destruction, and compensation for material and moral damage caused.

In cases of violation of a citizen's right to their image, instead of compensation for moral damage, the citizen has the right to demand that the offender pay compensation ranging from 2 to 100 times the basic calculated amount for each violation, as determined by the court, along with the application of other protective and liability measures established by this Code.

When calculating the compensation amount, it is necessary to consider the nature and circumstances of the violation, including the circulation of the printed publication in which the citizen's image was illegally used, the audience of the channel or information source, the extent of image use, and the frequency of violations.

If it is impossible to identify the person responsible for illegal use of the image on the Internet, the person may claim against the individual listed in the relevant domain name registry as the domain name administrator.

A person who has applied for protection of their image rights in connection with the illegal use of a citizen's image in forms that make identification difficult is considered to be the person whose image was used (depicted), unless proven otherwise.

2.2. In the era of the development of the media space, intangible benefits and personal non-property rights that individualize the individual were introduced into economic circulation as assets. Their economic value has been recognized in the norms of the law in rich foreign experience. Therefore, we propose to define the rule on the alienation of personal non-property rights and the acquisition of benefits from them, individualizing the individual, by supplementing Article 19 of the Civil Code. It is advisable to supplement the norm with the following fifth part. **"The name or pseudonym of a natural person may be used by other persons with the consent of this person in their creative activity, entrepreneurial or other economic activity in ways that do not mislead third parties about the identity of citizens and do not abuse rights in other forms".**

2.3. There are attempts to guarantee image rights in many cases with the help of personal data or the right to privacy. In particular, special laws regulating legal relations in the field of mass media activities do not reflect the issues of image protection, unlike the protection of confidentiality, which weakens the protection of the rights of those depicted. In this regard, we propose to supplement the obligation of a journalist, as specified in the second part of Article 6 of the Law "On the

Protection of Journalistic Activity", which states that *"a journalist cannot use information related to their profession for personal purposes, publish information relating to the private life of an individual without the consent of the information source or author, as well as use audio and video recording devices"*, with the provision that ***"it is mandatory to obtain consent for the use and/or dissemination of a citizen's image (except when necessary to protect public interests)"***.

2.4. It is also proposed to supplement the norm provided in the third part of Article 13 of the Law of the Republic of Uzbekistan "On the principles and guarantees of freedom of information" by adding the phrase ***"prohibition of using a citizen's image in violation of civil legislation"*** to the existing provision *"prevention of unlawful dissemination of information related to an individual's private life without their consent".*

2.5. We consider it necessary to establish additional restrictions on recording the image of internal affairs officers in order to protect public interests. To ensure proper protection of the image of internal affairs officers, it is advisable to add the following clause to Article 34 of the Law "On Internal Affairs Bodies":

"It is prohibited to publish and use the image of the appearance or other identifying elements of an internal affairs officer for unlawful purposes, as well as if such actions interfere or may interfere with the officer's performance of official duties in the future. Failure to comply with this requirement will result in liability as established by the legislation of the Republic of Uzbekistan".

2.6. The absence of a mandatory retention period for radio and television broadcast materials compels the claimant to immediately seek evidence from the court in cases of unauthorized use of their image in audiovisual works. This is because it is impossible to predict when the evidence might be lost. Therefore, it is proposed to add a new article with the following content to Chapter IV of the Law "On Mass Media":

"To ensure the preservation of evidence relevant to the proper resolution of disputes, editorial offices of radio and television broadcasts are obliged to:

retain their own materials that were broadcast in recorded form;

register broadcast programs in a log book.

The following information must be recorded in the log book: date and time of broadcast, program topic, author, presenter, and participants.

Retention periods are established as follows:

broadcast materials - at least three months from the date of their broadcast;

log book - at least one year from the date of the last entry.

Audio and video recordings of broadcast radio and television programs containing election campaigning or referendum-related campaigning must be kept by the relevant television and/or radio broadcasting organization for at least 12 months (one year). Television and/or radio broadcasting organizations are obliged to provide copies of these radio and television broadcasts free of charge upon request of election commissions and referendum commissions".

III. Recommendations for improving law enforcement practice:

3.1. Since the proposed norm to the Civil Code related to image protection is a novelty for legislation and judicial practice, it was concluded that explanations

regarding its practical application should be included as clauses in one of the Resolutions of the Plenum of the Supreme Court, and a draft was developed. This, in turn, will create a foundation for courts to issue fair and well-founded decisions when considering claims related to image rights. We believe that this document should address issues related to the right to one's image, in particular, the definition of the concept of image, its legal characteristics, methods of protection, ways to protect it, and cases where an image can be used without the person's consent.

3.2. For judicial practice, we also propose dividing public figures into groups: **public officials, fully public persons,** and **relatively (limited) public persons**. Additionally, when protecting the image-related rights of these categories, special rules should be applied to maintain a balance between freedom of information and personal rights. Thus, *images of public officials* may be captured and used without their consent for the purpose of informing society during the course of their official duties, whether in official or unofficial settings. This excludes use related to personal privacy and for commercial purposes. The use of *images of fully public figures* is also permitted without their consent, provided that it does not violate their privacy and is not for commercial purposes. *Images of limited public figures* may be captured and used without consent for informational purposes, but only in connection with the event that made them known to society. Consent is required for the use of their images for purposes other than information and in situations unrelated to their fame.

НАУЧНЫЙ СОВЕТ DSc.07/30.12.2019.Yu.22.01 ПО ПРИСУЖДЕНИЮ УЧЕНЫХ СТЕПЕНЕЙ ПРИ ТАШКЕНТСКОМ ГОСУДАРСТВЕННОМ ЮРИДИЧЕСКОМ УНИВЕРСИТЕТЕ

ТАШКЕНТСКИЙ ГОСУДАРСТВЕННЫЙ ЮРИДИЧЕСКИЙ УНИВЕРСИТЕТ

КОРЕГДИЕВ БОБУР УМИДЖОН УГЛИ

СОВЕРШЕНСТВОВАНИЕ ГРАЖДАНСКО-ПРАВОВОГО РЕГУЛИРОВАНИЯ ПРАВ НА ИЗОБРАЖЕНИЕ

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АВТОРЕФЕРАТ
диссертации доктора философии (Doctor of Philosophy) по юридическим наукам

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ВВЕДЕНИЕ (аннотация диссертации доктора философии (PhD))

Цель исследования заключается в глубоком теоретическом и практическом изучении права граждан на изображение как объекта гражданского права, определении содержания и сущности данного права, разработке эффективных механизмов его правовой защиты, а также выработке предложений и рекомендаций по урегулированию правовых отношений, возникающих в случаях использования изображения без согласия.

Объект исследования составляют правовые отношения, связанные с гражданско-правовым регулированием права на изображение.

Научная новизна исследования заключается в следующем:

обоснована обязательность получения согласия при съемке гражданина и использовании его изображения, возможность лиц, достигших 16-летнего возраста, быть самостоятельными субъектами при даче согласия, а также существование случаев возможности использования изображения без согласия при учете общественных и государственных интересов;

проанализирована функция права на изображение по обеспечению баланса на пересечении личных и общественных интересов, обоснована необоснованность требования согласия при использовании изображений известных представителей науки, культуры и других сфер в целях распространения информации, представляющей большой интерес для общества;

обоснована недопустимость сбора, хранения, распространения и использования без согласия гражданина любой информации о его частной жизни, включая сведения о его происхождении, месте жительства, личной и семейной жизни;

обоснована необходимость усиления ответственности за искажение и распространение фото- и (или) видеоизображений сотрудников правоохранительных органов способом, ведущим к их дискредитации.

Внедрение результатов исследования. На основе результатов исследования, проведенного по гражданско-правовому регулированию права на изображение:

предложение, связанное с защитой посредством получения согласия при съемке гражданина и использовании его изображения, нашло отражение в части первой статьи 109 проекта Гражданского кодекса Республики Узбекистан в новой редакции, разработанного на основе Концепции совершенствования гражданского законодательства Республики Узбекистан, утвержденной Распоряжением Президента Республики Узбекистан № Р-5464 от 5 апреля 2019 года (справка Департамента законодательства Министерства юстиции Республики Узбекистан № 8/0010-02 от 22 июля 2025 года). Внедрение данного предложения послужило созданию правовой основы для защиты права на изображение, а также регулированию использования изображения личности;

предложение, связанное с необязательностью получения согласия при использовании изображений известных представителей науки, культуры и других сфер в целях распространения информации, представляющей большой интерес для общества, нашло отражение во втором пункте части третьей статьи 28 проекта Гражданского кодекса Республики Узбекистан в новой редакции (справка Департамента законодательства Министерства юстиции Республики Узбекистан № 8/0010-02 от 22 июля 2025 года). Данное предложение послужило специальной защите права на изображение общественных деятелей, знаменитостей, а также обеспечению свободы получения информации;

предложение относительно порядка использования информации, связанной с частной жизнью гражданина, нашло отражение в первой-второй частях статьи 110 проекта Гражданского кодекса Республики Узбекистан в новой редакции (справка Департамента законодательства Министерства юстиции Республики Узбекистан № 8/0010-02 от 22 июля 2025 года). Внедрение данного предложения послужило гражданско-правовой защите частной жизни гражданина;

предложение об административной ответственности за искажение и распространение фото- и (или) видеоизображений сотрудников правоохранительных органов способом, ведущим к их дискредитации, нашло отражение в статье 195^2 Кодекса Республики Узбекистан об административной ответственности (справка Управления по анализу проблем обеспечения законности и правопорядка Генеральной прокуратуры Республики Узбекистан № 27/2-158-25 от 17 июля 2025 года). Внедрение данных предложений послужило усилению защиты личных неимущественных прав сотрудников правоохранительных органов путем совершенствования правовых основ эффективной защиты их права на изображение.

Структура и объем диссертации. Диссертация состоит из введения, трех глав, включающих девять параграфов, заключения, списка использованной литературы и приложений. Объем диссертации составляет 153 страниц.

E’LON QILINGAN ISHLAR RO‘YXATI
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II bo‘lim (II part; II часть)

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