

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

TOSHKENT DAVLAT YURIDIK UNIVERSITETI

SETTIYEVA ADOLAT FAXRIDDIN QIZI

**QIMMATBAHO TOSHLAR VA QIMMATBAHO METALLAR BILAN
BOG‘LIQ MUNOSABATLARNI FUQAROLIK HUQUQIY TARTIBGA
SOLISHNING AYRIM MASALALARI**

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

**Yuridik fanlari bo‘yicha falsafa doktori (PhD) dissertatsiyasi
AVTOREFERATI**

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Оглавление автореферата диссертации доктора философии (PhD)

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KIRISH (falsafa doktori (PhD) dissertatsiyasi annotatsiyasi)

Dissertatsiya mavzusining dolzarbligi va zarurati: Dunyoda qimmatbaho metallar va qimmatbaho toshlar davlatning, jismoniy va yuridik shaxslarning doimiy daromad manbaini, moliyaviy barqarorligini ta'minlovchi strategik resurs sifatida qarab kelinganligi sababli 2025-yilda global qimmatbaho metallar bozori aylanmasi 327.47 milliard dollarga baholangan, bu ko'rsatgich 2032-yilga kelib 533.12 milliard dollarga yetishi kutilmoqda. Bu esa, 2025-yildan 2032-yilgacha 7.2 foizlik yillik murakkab o'sish suratini namoyish etadi.¹ Shuningdek, qimmatbaho toshlarning global bozori ham sezilarli darajada kengayshga tayyor bo'lib, 2025-yildagi 36 044,1 million dollardan 2035-yilda 68 151,4 million dollargacha oshadi. Bunda bozor 2025-yildan 2035-yilgacha CAGR (Compound Annual Growth Rate – Murakkab yillik o'sish sur'ati) da 6,6 foizga o'sishi kutilmoqda.² Shunga ko'ra, dunyoda qimmatbaho metallar va qimmatbaho toshlar muomalasini fuqarolik-huquqiy jihatdan tartibga solishning doktrinal g'oyalarini rivojlantirish, soha faoliyatida zamonaviy axborot texnologiyalarini qo'llash hamda mavjud fuqarolik-huquqiy asoslarni takomillashtirish ustida ishlash kabi masalalar davr talabidir.

Jahonda qimmatbaho metallar va qimmatbaho toshlar bilan bog'liq munosabatlarni huquqiy jihatdan tadqiq etish, ayniqsa ularni qazib olish, qayta ishlash, yetkazib berish, saqlash kabi birlamchi munosabatlarni, shuningdek, qimmatbaho metallar va qimmatbaho toshlar bilan bog'liq raqamli aktiv va virtual mulkni tartibga solishning huquqiy asoslarini takomillashtirish masalalariga muhim ilmiy-amaliy ahamiyat kasb etadigan tadqiqot yo'nalishi sifatida e'tibor qaratilmoqda. Xorijiy mamlakatlarda qimmatbaho metallar va toshlarga oid munosabatlarni fuqarolik-huquqiy tartibga solish bo'yicha quyidagi huquqiy doktrinalar amal qiladi: “Regalian huquqi” (*Jus Regale*) -“Davlat mulkchilik doktrinasi”, “Mas'ul ta'minot doktrinasi” (*Responsible Sourcing*), “*State Pre-Emptive Rights*” (Davlat ustuvor xaridi) hamda “Hujjatli kuzatuv doktrinasi” (*Traceability Doctrine*). Bunda, qimmatbaho toshlar, ayniqsa olmos savdosini tartibga solish bo'yicha eng muhim xalqaro tashabbuslardan biri “*Kimberley Process*” (Kimberley jarayoni) hamda *London Bullion Market Association (LBMA)* (London qimmatbaho metallar bozori uyushmasi) har bir qimmatbaho metall partiyasining qazib olinishidan tortib to realizatsiyagacha bo'lgan barcha bosqichlarda hujjatli kuzatuv ostida bo'lishi kerakligi haqidagi “Traceability doktrinasi” ahamiyatini alohida ta'kidlaydi.

Mamlakatimizda “Yangi O'zbekistonning 2022–2026-yillarga mo'ljallangan taraqqiyot strategiyasi”da ko'rsatilganidek, har bir shaxs erkin fuqarolik jamiyati tomonidan yaratilgan huquq va manfaatlardan foydalanishi kafolatlanadi. Shunga ko'ra, qimmatbaho toshlar va qimmatbaho metallar muomalasida ishtirok etadigan subyektlar huquqlarini samarali himoya qilish bugungi kunning dolzarb masalalardan biri bo'lib, hozirda mamlakatimizda sohani tartibga soluvchi milliy qonunchilikni takomillashtirishga qaratilgan islohotlar boshlab yuborilgan. Bunga

¹ <https://www.coherentmarketinsights.com/industry-reports/precious-metals-market>

² <https://www.futuremarketinsights.com/reports/gemstones-market>

misol sifatida, qimmatbaho metallar muomalasini cheklash chegaralarining aniqlashtirib olingani, soha faoliyatidagi ishtirokchilar doirasining kengayishi, litsenziya olish tartibotlari va boshqalarga nisbatan erkinlashtirish siyosatining olib borilishi shular jumlasidandir. Shuningdek, respublikamizda **“Raqamli O‘zbekiston - 2030” strategiyasi** doirasida ijtimoiy munosabatlarni huquqiy tartibga solishning barqarorligi, sifati va samaradorligini ta’minlash maqsadida “aqli tartibga solish” modeli elementlarini qo‘llash doirasida qonunchilik hujjatlarining tartibga solish ta’sirini baholashni rivojlantirish, huquq tizimining raqobatbardoshligini oshirish va iqtisodiyotning yangi drayverlarini harakatga keltirish doirasida zamonaviy texnologiyalarga va raqamli faoliyatga bo‘lgan talablarni qayta ko‘rib chiqish masalalari huquq tizimini kompleks rivojlantirishning ustuvor vazifasi etib belgilangan bo‘lib, mazkur vazifalar ushbu sohadagi qonunchilikni xalqaro standartlar asosida takomillashtirishni dolzarb etib belgilamoqda. Shuning uchun ham, qimmatbaho toshlar va qimmatbaho metallar bilan bog‘liq munosabatlarni fuqarolik-huquqiy tartibga solish masalalarini o‘rganish va soha faoliyatini zamon talablaridan kelib chiqib, bosqichma-bosqich takomillashtirib borish har bir mamlakat huquq tizimining asosiy, ustuvor yo‘nalishlaridan biri bo‘lib qolaveradi. Respublikamizda 2020-yilda 101,6 tonna oltin qazib olindi. Bu bilan O‘zbekiston oltin qazib olish bo‘yicha dunyoda 8-o‘rinni egalladi. 2024-yilda O‘zbekiston oltin qazib olish bo‘yicha dunyodagi eng yaxshi 10 mamlakat qatoriga kirdi. Bu haqda Forbes jurnalining Butunjahon Oltin Kengashi ma’lumotlariga asoslangan maqolasida ma’lumot berildi.³

O‘zbekiston Respublikasi Konstitutsiyasi (1992), O‘zbekiston Respublikasi Fuqarolik kodeksi (1995, 1997), O‘zbekiston Respublikasi “Qimmatbaho metallar va qimmatbaho toshlar to‘g‘risida”gi O‘RQ-710-son Qonuni (2021), “Yer qa’ri to‘g‘risida”gi O‘RQ-987-son O‘zbekiston Respublikasining Qonuni (2024), O‘zbekiston Respublikasi Prezidentining “Qimmatbaho metallarni oltin izlovchilar usulida qazib olish faoliyatini amalga oshirish uchun shart-sharoitlar yaratish chora-tadbirlari to‘g‘risida”gi PQ-4030-son qarori (2018), O‘zbekiston Respublikasi Vazirlar Mahkamasining “Qimmatbaho metallarni birja savdolari va to‘g‘ridan-to‘g‘ri shartnomalar asosida sotishda zargarlik sohasida ish o‘rinlarini yaratgan tadbirkorlik subyektlariga chegirmalar berish tartibini takomillashtirish to‘g‘risida”gi qarori (2024) va mavzuga oid boshqa qonunchilik hujjatlarida belgilangan vazifalarni amalga oshirishga ushbu tadqiqot ishi muayyan darajada xizmat qiladi.

Tadqiqotning respublika fan va texnologiyalari rivojlanishining asosiy ustuvor yo‘nalishlariga mosligi. “Axborotlashgan jamiyat va demokratik davlatni ijtimoiy, huquqiy, iqtisodiy, madaniy, ma’naviy-ma’rifiy rivojlantirishda innovatsion g‘oyalar tizimini shakllantirish va ularni amalga oshirish yo‘llari” ustuvor yo‘nalishi bo‘yicha bajarilgan.

Muammoning o‘rganilganlik darajasi.Yuridik adabiyotlarda qimmatbaho toshlar va qimmatbaho metallar fuqarolik huquqining maxsus tartibga solish xususiyatlarini o‘zida aks ettirgan obyekt ekanligi haqida so‘z boradi. Biroq bugungi

³ <https://www.gold.org/news> yoki <https://kun.uz/35849035>

kunga qadar tadqiq etilgan birorta ilmiy-nazariy ishlar mazmunida qimmatbaho toshlar va qimmatbaho metallarning birlamchi muomalasi, ushbu jarayonda ularning fuqarolik huquqiy munosabatlarning maxsus obykti sifatidagi xususiyatlari, o'ziga xos tartibga solish mexanizmlari haqida batafsil to'xtalib o'tilmagan.

Bundan tashqari, respublikamizda konchilik va metallurgiya sohasida texnik va iqtisodiy tadqiqotlar olib borilgan bo'lsa-da, qazib olingan qimmatbaho metallar va toshlar muomalasining huquqiy jihatlari bo'yicha maxsus monografiyalar yoki dissertatsiyalar mavjudligi haqida aniq ma'lumotlar yo'q.

Milliy huquqshunos olimlarimiz I.B. Zokirov, H.P.Rahmonqulov, O.Oqyulov, I.P. Rustambekov, N.F.Imomov, J.I. Yuldashev, B.R.Topildiyev, J.I. Babayev, Q.M.Mehmonovlarning tadqiqot ishlarida O'zbekiston Respublikasida mulk huquqi, ashyoviy huquqlar, maxsus tartibga solish rejimiga ega fuqarolik huquqi obyektlari, ashyoviy huquqlar, intellektual mulk sohasidagi munosabatlarni huquqiy tartibga solish asoslari o'rganilgan.

MDH (Mustaqil Davlatlar Hamdo'stligi) davlatlaridan ushbu sohaga oid ilmiy ishlar S.I. Popova, D.O. Shniger, A.Y. Fedorov, R.M. Olimova, M.A. Zinkovskiy va S.A. Rebrovskiy, V.G. Gadiatov kabi huquqshunos olimlar tomonidan yozilgan, shuningdek, ukrainalik huquqshunos olimlar K. Dikhtyarenko, O.M. Malichenko, V. Romanov, Y. Titova tomonidan mazkur sohada ilmiy monografiyalar chop etilgan. D.O. Shniger o'zining ilmiy izlanishlari davomida Rossiyadagi bozorlarda qimmatbaho toshlar va qimmatbaho metallar o'ziga xos fuqarolik-huquqiy obyekt ekanligi borasidagi qarashlarini aks ettirishga harakat qilgan.

Yevropada qimmatbaho toshlar va qimmatbaho metallar bilan bog'liq huquqiy munosabatlarni elektronlashtirish yo'nalishlari, sohani tartibga solish rejimidagi o'ziga xos jihatlar haqida huquqshunos olimlar Carola Kantz, Anandasivam (Buyuk Britaniya), Laurent Cartier (Shveytsariya), Barbara Harlow (AQSh), Daniel Franks (Australiya), Eva-Maria Kieninger, H.Schulte-Nolke (Germaniya), Chung Shou-Ping, Lin Gin (Xitoy), Yaman Gursel (Turkiya), A. Vasik (Polsha) va boshqalarning ilmiy-nazariy ishlarida ko'rish mumkin.

Huquqshunos olim Carola Kantz o'zining "Precious stones, black gold and the extractive industries: accounting for the institutional design of multi-stakeholder initiatives - Qimmatbaho toshlar, oltin va uni qazib olish sanoati: ko'p manfaatdor tomonlar tashabbuslarining institutsional dizaynini hisobga olish" nomli ilmiy ishida qimmatbaho toshlar, oltin, "qora oltin" (neft) kabi resurslar kontekstida ko'pmintaqaviy soft-law mexanizmlar (qulay huquqiy rejim), xususan, Kimberley jarayonini (KP) va "Extractive Industries Transparency Initiative (EITI) - Tabiiy resurslarni qazib olish sanoatida shaffoflik tashabbusi"ning institutsional tuzilishini tahlil qiladi. Olim L.E. Cartier esa "blockchain texnologiyasi" orqali qimmatbaho metallar va toshlarning kelib chiqish manbalarini qayd etish, soxta toshlarni aniqlash muammolari haqida izlanishlar olib borgan.

Kembrij universiteti professori V.Palmer esa "Mixed jurisdictions worldwide: the third legal family - Dunyo bo'ylab aralash huquqiy qarashlar" asarida "qimmatbaho materiallarning huquqiy ta'riflari turli yurisdiksiyalarda farqlansa-da, ular odatda yuqori iqtisodiy qiymatga ega kamyob metallar va toshlarni o'z ichiga oladi va maxsus huquqiy tartibga solishga bo'ysunishi" haqida yozadi.

Dissertatsiya mavzusining dissertatsiya bajarilayotgan oliy ta'lim muassasasining ilmiy-tadqiqot ishlari rejalari bilan bog'liqligi. Dissertatsiya mavzusi Toshkent davlat yuridik universitetining ilmiy-tadqiqot ishlari rejasiga muvofiq, "Qimmatbaho toshlar va qimmatbaho metallar bilan bog'liq munosabatlarni fuqarolik huquqiy tartibga solishning ayrim masalalari" mavzusi doirasida bajarilgan.

Ushbu ishning maqsadi qimmatbaho toshlar va qimmatbaho metallar muomalasi bilan bog'liq birlamchi munosabatlarni fuqarolik-huquqiy jihatdan tartibga solishning o'ziga xos jihatlarini tadqiq etish va ushbu yo'nalishdagi qonunchilikni takomillashtirishga qaratilgan takliflar va tavsiyalar ishlab chiqishdan iborat.

Tadqiqotning vazifalari:

qimmatbaho toshlar va qimmatbaho metallar huquqiy tabiati, uni tushunish bo'yicha ilmiy konsepsiyalar va doktrinalarni tahlil qilish orqali yangi ilmiy-nazariy g'oyalar ishlab chiqish;

qimmatbaho toshlar va qimmatbaho metallar muomalasi institutini tashkil etuvchi huquqiy tushunchalarni tahlil qilish, baholash va ularni takomillashtirish zaruratini aniqlash;

qimmatbaho toshlar va qimmatbaho metallar tushunchasini, mohiyatini, ushbu soha rivojlanishining istiqbollarni belgilab beruvchi milliy va chet el qonunchilik normalarini nazariy va amaliy jihatdan tatbiq etish;

qimmatbaho toshlar va metallarni qazib olish, ularga egalik qilish, ulardan foydalanish va tasarruf etish bilan bog'liq munosabatlarni huquqiy tartibga solish tarixini o'rganish;

qimmatbaho toshlar va metallar bilan bog'liq munosabatlarni amalga oshirish shartlari hamda ularni amalda qo'llashning huquqiy asoslarini tahlil qilish;

qimmatbaho toshlar va metallarni yer ostidan qazib olishgacha, qazib olish jarayonida va undan keyingi davrdagi huquqiy rejimini belgilash, xususan, ushbu qimmatliklarga nisbatan mulk huquqidagi cheklovlar va yuklamalarini aniqlash;

qimmatbaho toshlar va metallar ustidan mulk huquqining yuzaga kelishi va to'xtatilishiga asos bo'ladigan holatlarni tavsiflash;

qimmatbaho toshlar va metallar muomalasini tartibga soluvchi rivojlangan xorijiy davlatlar normativ-huquqiy hujjatlarini, shuningdek, huquqni qo'llash amaliyotini tahlil qilish hamda milliy qonunchilikni takomillashtirishga qaratilgan taklif va tavsiyalarni ishlab chiqishdan iborat.

Tadqiqotning obyektini sifatida qimmatbaho toshlar va qimmatbaho metallar bilan bog'liq fuqarolik-huquqiy munosabatlar olingan.

Tadqiqotning predmetini qimmatbaho toshlar va metallar bilan bog'liq munosabatlarni fuqarolik-huquqiy tartibga solishga oid nazariy g'oyalar, ushbu yo'nalishdagi muammolar hamda sohaga oid qonunchilik normalari tashkil etadi.

Tadqiqotning usullari. Tadqiqot jarayonida umumlashtirish, tizimli yondashuv, tarixiylik, mantiqiy tahlil, aniqlashtirish, statistik va amaliyotga oid materiallarni o'rganish hamda qiyosiy-huquqiy tahlil usullari qo'llanilgan.

Tadqiqotning ilmiy yangiligi quyidagilardan iborat:

qimmatbaho metallar va qimmatbaho toshlar bozorida zargarlik faoliyati bilan ishtirok etuvchi subyektlarga nisbatan qo‘llaniladigan huquqiy tartibga solishning amaldagi mexanizmlarini soddalashtirish, xususan, ularga nisbatan qonunchilikda belgilangan litsenziya shartlari hamda monitoring o‘tkazish talablarini yengillashtirishga oid taklif asoslantirilgan;

fuqarolik-huquqiy munosabatlarda, bevosita qimmatbaho metallar va qimmatbaho toshlar muomalasi jarayoniga oid qonunchilikdagi o‘z ahamiyatini yo‘qotgan ayrim tashkiliy-huquqiy shakllar, tartib-taomillar, huquqiy tushunchalarni bekor qilish bo‘yicha takliflar asoslantirilgan;

qimmatbaho toshlar va metallar muomalasi jarayonida qimmatbaho toshlar va metallarni ishlab chiqarish, ularga ishlov berish (qayta ishlash), foydalanish natijasida tadbirkorlik subyektlarida qimmatbaho metallar va toshlarga oid chiqindi va parchalar hosil bo‘lgan vaziyatda, mazkur chiqindi va parchalar ushbu tadbirkorlik subyektlari mulkida, operativ boshqaruvida bo‘lishi mumkinligiga oid takliflar asoslantirilgan;

qimmatbaho metallar va toshlardan yasalgan zargarlik hamda boshqa buyumlarni tamg‘alash faoliyatida ishtirok etuvchi qonunchilik bilan belgilangan subyektlar doirasini hamda ularga tegishli vakolatlar ko‘lamini kengaytirish, shuningdek, qimmatbaho toshlar va qimmatbaho metallarga oid qonunchilikdagi huquqiy tushunchalarni bank, moliya sohasidagi qonunchilikda ifodalangan huquqiy tushunchalarga muvofiqlashtirishga oid takliflar asoslab berilgan.

Tadqiqotning amaliy natijalari quyidagilardan iborat:

qimmatbaho toshlar va qimmatbaho metallar bilan bog‘liq fuqarolik-huquqiy munosabatlar ishtirokchilari doirasi hamda ularning muomala layoqati aniqlashtirilgan;

qimmatbaho tosh va metallar bilan bog‘liq fuqarolik-huquqiy munosabat ishtirokchilari huquqlari, majburiyatlari, javobgarlik masalalari takomillashtirilgan;

qimmatbaho toshlar va qimmatbaho metallar bilan bog‘liq munosabatlarning fuqarolik-huquqiy maqomi, o‘ziga xos xususiyatlari tatqiq qilinib, “Qimmatbaho metallar va qimmatbaho toshlar to‘g‘risida”gi O‘zbekiston Respublikasi Qonuniga o‘zgartirish va qo‘shimchalar kiritish takliflari asoslab berilgan;

qimmatbaho toshlar va qimmatbaho metallar bozorida elektron tijorat bilan shug‘ullanuvchi subyektlarning tovar va xizmatlar uchun to‘lovlariga NFC (Near field communication - Elektromagnit induksiya orqali simsiz aloqa) texnologiyalari, “blokchain axborot uzatish tizimi” va boshqa elektron vositalarni joriy qilish hamda “aqilli (smart) shartnomalar” tuzish ahamiyati asoslab berilgan.

Tadqiqot natijalarining ishonchliligi. Tadqiqot natijalari milliy va xorijiy davlatlar qonunchilik normalari, rivojlangan davlatlar tajribasi, soha faoliyatida vakolatli davlat organlari bo‘lgan O‘zbekiston Respublikasi Tog‘-kon sanoati va geologiya vazirligi, Davlat asillik darajasini belgilash palatasi tomonidan taqdim etilgan statistik ma’lumotlarga asoslangan, shuningdek xulosa, taklif va tavsiyalar aprotatsiyadan o‘tkazilib, ularning natijalari yetakchi milliy va xorijiy nashrlarda e’lon qilingan, bu borada huquqshunoslar o‘rtasida so‘rovnomalar o‘tkazilgan hamda tegishli davlat organlari tomonidan natijalarning amaliyotga joriy qilinishi bo‘yicha dalolatnomalar bilan tasdiqlangan.

Tadqiqotning ilmiy va amaliy ahamiyati.

Tadqiqot natijalarining ilmiy ahamiyati unda aks etgan ilmiy-nazariy g'oyalar, bayon qilingan materiallardan "Fuqarolik huquqi", "Xalqaro xususiy huquq" kabi modullarni o'qitishda va mavzuga oid ilmiy-tadqiqot ishlari olib borish jarayonida, shuningdek, metodik tavsiyalar tayyorlashda foydalanish mumkin.

Tadqiqot natijalarining amaliy ahamiyati mazkur ishda bayon etilgan qoidalar va xulosalar qimmatbaho toshlar va metallar muomalasini tartibga soluvchi normativ-huquqiy hujjatlarni takomillashtirishda, shuningdek, huquqni qo'llash amaliyotida tegishli huquq normalarini sharhlashda hamda davlat organlarining qonun va norma ijodkorligi faoliyatida foydalanish mumkinligi bilan izohlanadi.

Tadqiqot natijalarining joriy qilinishi:

qimmatbaho metallar va qimmatbaho toshlar bozorida zargarlik faoliyati bilan ishtirok etuvchi subyektlarga nisbatan qo'llaniladigan huquqiy tartibga solishning amaldagi mexanizmlarini soddalashtirish, xususan, ularga nisbatan qonunchilikda belgilangan litsenziya shartlari hamda monitoring o'tkazish talablarini yengillashtirishga oid takliflar O'zbekiston Respublikasi Adliya vazirligi tomonidan ishlab chiqilgan O'zbekiston Respublikasi Vazirlar Mahkamasining "Tadbirkorlik sohasidagi majburiy talablar qisqartirilishi munosabati bilan O'zbekiston Respublikasi Hukumatining ayrim qarorlariga o'zgartirish va qo'shimchalar kiritish to'g'risida"gi qarori loyihasining 10-bandi mazmunini shakllantirishda foydalanilgan. (O'zbekiston Respublikasi Adliya vazirligi 2025-yil 24-iyuldagi 14-3/5-4234-son dalolatnomasi). Ushbu taklif zargarlik buyumlarini ishlab chiqarish, import qilish kabi faoliyat turlari bilan shug'ullanuvchi tadbirkorlar faoliyatini huquqiy jihatdan tartibga solishning mavjud mexanizmlarini yanada soddalashtirishga xizmat qilgan;

qimmatbaho metallar va qimmatbaho toshlar muomalasiga oid qonunchilikda ahamiyatini yo'qotgan ayrim huquqiy tushunchalarni bekor qilish, o'zgartirishga oid takliflar O'zbekiston Respublikasining 2025-yil 7-fevraldagi "Korporativ munosabatlarning huquqiy asoslari yanada takomillashtirilishi munosabati bilan O'zbekiston Respublikasining ayrim qonun hujjatlariga o'zgartirish va qo'shimchalar kiritish to'g'risida"gi O'RQ-1025-son Qonuni 35-moddasi mazmunini shakllantirishda foydalanilgan. (O'zbekiston Respublikasi Oliy Majlis Senatining 2025-yil 25-iyuldagi 14/3-son dalolatnomasi). Mazkur taklif O'zbekiston Respublikasining 2021-yil 23-avgustdagi "Qimmatbaho metallar va qimmatbaho toshlar to'g'risida"gi Qonunidan hozirgi vaqtda o'z ahamiyati va zarurligini yo'qotgan tashkiliy-huquqiy shakllar, tartib-taomillar, huquqiy tushunchalar chiqarib tashlanishiga xizmat qilgan;

qimmatbaho toshlar va qimmatbaho metallarni ishlab chiqarish, ularga ishlov berish (qayta ishlash), foydalanish natijasida tadbirkorlik subyektlarida qimmatbaho metallar va toshlarga oid chiqindi, parchalar hosil bo'lganda, ularni tadbirkorlik subyektlari mulkida, operativ boshqaruvida bo'lishi, foydalanilishi mumkinligiga oid taklif O'zbekiston Respublikasining 2025-yil 7-fevraldagi "Korporativ munosabatlarning huquqiy asoslari yanada takomillashtirilishi munosabati bilan O'zbekiston Respublikasining ayrim qonun hujjatlariga o'zgartirish va qo'shimchalar kiritish to'g'risida"gi O'RQ-1025-son Qonuni 35-moddasi

mazmunini shakllantirishda foydalanilgan. (O‘zbekiston Respublikasi Oliy Majlis Senatining 2025-yil 25-iyuldagi 14/3-son dalolatnomasi). Ushbu taklif “Qimmatbaho metallar va qimmatbaho toshlar to‘g‘risida”gi O‘zbekiston Respublikasi Qonuni 24-moddasi mazmuniga o‘z mulkida yoki operativ boshqaruvida qimmatbaho metallar parchalari, chiqindilari hamda qimmatbaho toshlarning chiqindilari bo‘lgan yuridik shaxslar tomonidan o‘z ishlab chiqarishida ulardan qayta foydalanish uchun mustaqil ravishda qayta tayyorlanishi, ishlov berilishi mumkinligi haqidagi normalar kiritilishiga xizmat qilgan;

qimmatbaho metallar va qimmatbaho toshlardan yasalgan zargarlik hamda boshqa buyumlarni tamg‘alash faoliyatida ishtirok etuvchi qonunchilik bilan belgilangan subyektlar doirasini hamda ularga tegishli vakolatlar ko‘lamini yanada kengaytirish, shuningdek, qimmatbaho toshlar va qimmatbaho metallarga oid qonunchilikdagi huquqiy tushunchalarni bank, moliya sohasidagi qonunchilikda ifodalangan mavjud huquqiy tushunchalarga muvofiqlashtirishga oid takliflar O‘zbekiston Respublikasining 2025-yil 17-apreldagi “Tadbirkorlik subyektlarini moliyaviy qo‘llab-quvvatlash tizimi takomillashtirilishi munosabati bilan O‘zbekiston Respublikasining ayrim qonun hujjatlariga o‘zgartirish va qo‘shimchalar kiritish to‘g‘risida”gi O‘RQ–1058-son Qonuni 10-moddasini shakllantirishda foydalanilgan. (O‘zbekiston Respublikasi Oliy Majlis Senatining 2025-yil 25-iyuldagi 14/3-son dalolatnomasi). Ushbu takliflar qabul qilinishi tashkiliy jihatdan murakkablik va moliyaviy-inklyuziya ta'siri yuqori bo‘lgan mikromoliya tashkilotlari zargarlik mahsulotlarini tamg‘alash faoliyatida ishtirok etuvchi subyektlar doirasiga kiritilishiga xizmat qilgan.

Tadqiqot natijalarining apsorbiyasi. Tadqiqot natijalari 5 ta ilmiy anjumanda, jumladan 2 ta xalqaro va 3 ta respublika ilmiy-amaliy anjumanlarida muhokamadan o‘tgan.

Tadqiqot natijalarining e‘lon qilinganligi. Dissertatsiya mavzusi bo‘yicha jami 14 ta ilmiy ish, shu jumladan 6 ta ilmiy maqola (3 ta xalqaro), 8 ta ilmiy konferensiyalar to‘plamlarida (3 ta xalqaro) maqola nashr etilgan.

Dissertatsiyaning tuzilishi va hajmi. Dissertatsiya tarkibi kirish, uchta bob, xulosa, foydalanilgan adabiyotlar ro‘yxatidan iborat. Dissertatsiya hajmi 154 betni (foydalanilgan adabiyotlar ro‘yxatidan tashqari) tashkil etadi.

DISSERTATSIYANING ASOSIY MAZMUNI

Dissertatsiyaning **kirishida** tadqiqot mavzusining dolzarbligi va zarurati, tadqiqotning respublika fan va texnologiyalari rivojlanishining asosiy ustuvor yo‘nalishlariga mosligi, muammoning o‘rganilganlik darajasi, dissertatsiya mavzusining dissertatsiya bajarilgan oliy ta‘lim muassasasining ilmiy-tadqiqot ishlari rejaları bilan bog‘liqligi, uning maqsad va vazifalari, obykti va predmeti, usullari, tadqiqotning ilmiy yangiligi va amaliy ahamiyati, ularning joriy qilinganligi, tadqiqot natijalarining aprobatsiyasi, natijalarning e‘lon qilinganligi, dissertatsiyaning hajmi va tuzilishi bayon etilgan.

Dissertatsiyaning birinchi bobi “**Qimmatbaho toshlar va qimmatbaho metallar bilan bog‘liq ijtimoiy-huquqiy munosabatlarning umumiy tavsifi**” ga

bag'ishlangan bo'lib, unda qimmatbaho toshlar va metallar tushunchasi, ular bilan bog'liq ijtimoiy-huquqiy munosabatlar mazmuni, fuqarolik-huquqiy tartibga solish obyekti sifatidagi xususiyatlari, shuningdek, sohani tartibga soluvchi fuqarolik-huquqiy normalar tizimining rivojlanish tendensiyasi hamda milliy qonunchilikdagi sohaga oid normativ hujjatlar mazmun-mohiyati yoritib berilgan.

Bugungi globallashuv va resurslarga asoslangan iqtisodiy taraqqiyot sharoitida qimmatbaho metallar va toshlar bilan bog'liq huquqiy munosabatlar tobora murakkab tus olmoqda. Ushbu resurslar ustidan suverenitet, egalik qilish, foydalanish va tasarruf etish kabi masalalarni amalga oshirishda xalqaro hamjamiyat tomonidan "Regalian huquqi" (*Jus Regale*) - "Davlat mulkchilik doktrinasini" yoki "*Sovereignty over Natural Resources*" (Tabiiy resurslar ustidan suverenitet) doktrinasini, "Mas'ul ta'minot doktrinasini" (Responsible Sourcing), "*State Pre-Emptive Rights*" (Davlat ustuvor xaridi) hamda "Hujjatli kuzatuv" (*Traceability Doctrine*) kabi bir qancha asosiy doktrinalar qo'llanilib kelinmoqda. Bunda "Regalian huquqi - Davlat mulkchilik" doktrinasiga ko'ra, davlat o'z hududidagi tabiiy boyliklar ustidan to'liq suverenitetga ega hamda ularni boshqarish, qazib olish va tasarruf etishda to'liq huquqlarni amalga oshiradi. BMTning 1962-yilgi "Tabiiy boyliklar ustidan suverenitet" rezolyutsiyasi bu tamoyilni xalqaro huquqqa kiritgan. Venesuela, Nigeriya, Indoneziya kabi resurslarga boy davlatlar ushbu doktrina tamoyillarini qo'llash orqali davlatlarning o'z tabiat resurslarini mustaqil boshqarish huquqini himoya qiladi. Yevropa Ittifoqi mamlakatlari va AQSh da "nizoli minerallar" muomalasini oldini olishda ushbu doktrina tamoyillari keng qo'llanilib kelayotgan bo'lib, 2010-yilgi "Dodd-Frank akti"ning 1502-bo'limi ushbu konsepsiya tamoyillari bilan mustahkamlangan. Bunda, qimmatbaho tosh va metallar realizatsiyasida ishtirok etuvchi subyektlar ushbu resurslar kelib chiqish manbalarini tekshirib, ularning qonuniy, etik ekanligiga ishonch hosil qilishi shart.

Muallif O'zbekistonda ham qimmatbaho toshlar va metallar bilan bog'liq munosabatlarni fuqarolik-huquqiy tartibga solishda "Regalian huquqi" doktrinasini bilan bir qatorda "Hujjatli kuzatuv" doktrinasini qo'llashni ta'kidlab o'tadi. Natijada O'zbekiston soha faoliyatida quyidagi natijalarga erishishi mumkin bo'ladi.

1) davlat qimmatbaho metallar va qimmatbaho toshlarga egalik qilishda resurslarni boshqarish huquqiga ega hamda xalqning ushbu umummilliy boylikdan oqilona foydalanishini ta'minlash orqali ularni muhofazalaydi va fuqarolik muomalasini to'g'ri yo'lga qo'yishga erishadi;

2) davlat qimmatbaho minerallar noqonuniy qazib olinishini, kontrabanda mahsulotlarning qonuniy bozorlarga kirib kelishini oldini olishda qimmatbaho toshlar va metallar ta'minot zanjirida mahsulotning kelib chiqishi, harakat yo'li va mulk egalari o'zgarishini hujjatlar bilan aniqlash imkoniyatiga ega bo'ladi.

Birlashgan Millatlar tashkiloti Bosh Assambleyasining 1952-yil 12-yanvardagi 523 (VI), 1952-yil 21-dekabrda 626 (VII) hamda 1962-yil 14-dekabrda 1803 (XVII) rezolyutsiyalari "*xalqning o'z boyliklaridan erkin foydalanish va eksplutatsiya qilish huquqi*"ni ularning suverenitetining ajralmas qismi deb e'tirof etgan. Mazkur umumqabul qilingan tog'-kon munosabatlarini tartibga soluvchi qoidalar O'zbekiston Respublikasi qonunchiligida quyidagi konstitutsiyaviy ifodani topgan. O'zbekiston Respublikasi Konstitutsiyasining

68-moddasiga muvofiq, yer, yer osti boyliklari, suv, o‘simlik va hayvonot dunyosi hamda boshqa tabiiy resurslar umummilliy boylikdir, ulardan oqilona foydalanish zarur va ular davlat muhofazasidir. Yer qonunda nazarda tutilgan hamda undan oqilona foydalanishni va uni umummilliy boylik sifatida muhofaza qilishni ta‘minlovchi shartlar asosida va tartibda xususiy mulk bo‘lishi mumkin.

Tadqiqot ishida qimmatbaho toshlar va metallar huquqiy tushunchalari hamda ularning fuqarolik huquqi obykti bo‘la olishiga nisbatan qator olimlar (I.Zokirov, H.R.Rahmonqulov, O.Okuyulov, I.Imomov, J.Yuldashev, S.I. Popova, D.O. Shniger, A.Y. Fedorov, R.M. Olimova, M.A. Zinkovskiy va S.A. Rebrovskiy, V.G. Gadiatov K. Zveigert, K.Kantz, L.Kartier H. Kotz, P. Bernstein, E. Bruton, M.Donoghue) fikrlari keltirilishi bilan birga, ishda xalqaro tijorat tashkilotlarining ham huquqiy ta‘riflari eslab o‘tiladi, shuningdek, “qimmatbaho toshlar” tushunasiga nisbatan mualliflik ta‘rifi taklif etiladi. Unga ko‘ra, “qimmatbaho toshlar - bu yer osti qazilma boyliklarini qazib olish natijasida tabiiy usulda qo‘lga kiritilgan hamda sun‘iy/sintetik shaklda laboratoriya sharoitida, inson mehnati omili natijasida yaratilgan tosh tasnifiga kiritiluvchi minerallardir. Qimmatbaho toshlar turkumiga kiruvchi qazilma boyliklarining boshqa individual xususiyatlari va iqtisodiy-qiymatlilik belgilari qimmatbaho toshlarga oid munosabatlarni texnik jihatdan tartibga soluvchi reglamentlar bilan belgilab beriladi. Qahraboning noyob hosilalari qimmatbaho toshlarga tenglashtirilishi mumkin”.

Shuningdek, dissertant qimmatbaho toshlar va metallar muomalasi o‘ziga xos mulkiy va tashkiliy munosabatlarni o‘zida ifoda etishi hamda ushbu sohada yuzaga keladigan ijtimoiy munosabatlarni tartibga solishda huquqning boshqa sohalari - ma‘muriy, ekologiya, yer, soliq, mehnat huquqidan farqli ravishda qimmatliklarni qazib olish, oldi-sotdi qilish, narx shartlarini belgilash, egalik qilish, yetkazib berish yoki saqlash sharoitlarini aniqlash kabilar o‘ziga xos mulkiy munosabatlar sifatida namoyon bo‘lishini ta‘kidlaydi. Shu bilan birga, qimmatbaho metallar va toshlar muomalasi bilan yuzaga keladigan munosabatlar ham fuqarolik-huquqiy tartibga solishning obykti bo‘la olishi borasidagi o‘z pozitsiyasini bildiradi.

Shuningdek, dissertant 2017-yildan hozirga qadar bo‘lgan davrni qimmatbaho metallar va qimmatbaho toshlar muomalasi rivojlanishining yangi davri deb nomlab, ushbu muddatda O‘zbekistonda qimmatbaho metallar va qimmatbaho toshlar muomalasining yangi va zamonaviy strategiyalari ishlab chiqilgani, qimmatbaho metallar va qimmatbaho toshlar muomalasi bo‘yicha amaldagi tartibni zamonaviy tarzda rivojlantirish, qimmatbaho metallar va qimmatbaho toshlar muomalasi sohasida oqilona foydalanish tamoyilining o‘rnatilganligi bilan xarakterlaydi. Bunda O‘zbekiston Respublikasi Prezidentining 2018-yil 26-noyabrdagi “Qimmatbaho metallarni oltin izlovchilar usulida qazib olish faoliyatini amalga oshirish uchun shart-sharoitlar yaratish chora-tadbirlari to‘g‘risida”gi PQ-4030-son qarori qimmatbaho toshlar va qimmatbaho metallar muomalasi sohasida tub burilish yasagan, soha liberallashtirishini o‘zida aks ettirgan normativ hujjat hisoblanishi hamda bu yo‘nalishda o‘z tadbirkorligini YTT (yakka tartibdagi tadbirkor) shaklida boshlagan oddiy jismoniy shaxslar faoliyatining mexanizmlari haqida yozadi.

Dissertatsiyaning **“Qimmatbaho toshlar va qimmatbaho metallar muomalasi, ular bilan bog‘liq munosabatlarni shartnomaviy-huquqiy tartibga solish, shuningdek, qimmatbaho toshlarni qayta ishlashning ayrim masalalari”** deb nomlangan ikkinchi bobida qimmatbaho toshlarni qayta ishlash bilan bog‘liq munosabatlarning fuqarolik-huquqiy tartibga solishning o‘ziga xosligi, zargarlik hamda affinajlik faoliyati bilan bog‘liq ayrim munosabatlarning shartnomaviy-huquqiy tartibga solish masalalari, shuningdek, qimmatbaho metallar va qimmatbaho toshlarni hisobga olish, saqlash, ulardan foydalanish hamda ularni realizatsiya qilish munosabatlari haqida so‘z yuritadi.

Yer osti boyliklari ustidan mulk huquqi shakllanishi haqidagi masala “bu haqiqatan asl mulk huquqi hisoblanadimi?” degan o‘rinli savolni paydo qiladi hamda xalqaro huquqning konseptual qoidasi “Tabiiy resurslar ustidan suverenitet” (Sovereignty over Natural Resources) va “Mas’ul ta’minot” (Responsible Sourcing) doktrinasidan kelib chiqib, yer osti boyliklarining maqomini quyidagilarda aks ettiradi:

- davlatning vazifasi - yer osti boyliklaridan foydalanishda umumxalq manfaatlarini ta’minlash, ya’ni mamlakatning iqtisodiy farovonligini oshirish bilan birga tabiiy boyliklarga zarar yetkazilishining oldini olish;

- davlat yer osti boyliklaridan foydalanishga nisbatan ruxsat berish va nazorat qilish mexanizmlarini olib borish va yuritishni o‘z zimmasida qoldirish.

Xalqaro savdodagi “barqarorlik” (sustainability) va “aylana iqtisodiyot” (circular economy) konsepsiyalari qimmatbaho toshlar va qimmatbaho metallarni affinaj qilishda ekologik va iqtisodiy barqarorlikni ta’minlashni ko‘zda tutadi. Bunda O‘zbekiston AQSh va Yevropa Ittifoqining ayrim davlatlari kabi ushbu konsepsiyani amaliyotga qo‘llashi orqali qimmatbaho toshlar va metallarni qayta ishlash va affinajlashda ekologik xavfsizlikni ta’minlashga, xususan, ***xarajatlarni kamaytirish, tabiiy resurslarni tejash va atmosfera ifloslanishini oldini olish kabi samarali natijalarga ega bo‘ladi.***

Qimmatbaho metalni yetkazib berish shartnomasi oldi-sotdi shartnomasining alohida turi hisoblanadi. Ushbu shartnoma bilan qimmatbaho metal mahsulot sifatida sotiladi, affinaj korxonasi esa ushbu tovar uchun haq to‘laydi. Mazkur jarayondagi barcha munosabatlar qimmatbaho metalni sotish shartnomasi asosida hal etiladi. Yer qa’ri uchastkalaridan qazib olingan qimmatbaho metallar va toshlarni sotib olishga bo‘lgan ustuvor huquq O‘zbekiston vakolatli davlat organlariga (O‘zbekiston Respublikasi Markaziy banki) tegishli bo‘ladi. Markaziy bank o‘zining qimmatbaho metallardagi aktivlarini to‘ldirish maqsadida affinaj qilingan qimmatbaho metallarni sotib olishga bo‘lgan ustuvor huquqini amalga oshirishdan yozma ravishda voz kechganda sanoat usulida qazib oluvchi subyektlar va affinaj korxonalari qimmatbaho metallarni birjalar orqali yoki to‘g‘ridan-to‘g‘ri shartnomalar bo‘yicha realizatsiya qilish huquqiga ega.

Noyob toifasiga kiritilishi mumkin bo‘lmagan qimmatbaho metallar yombilari va ushbu yombilarning mineralogik kolleksiya namunalari sanoat usulida qazib oluvchi subyektlar hamda oltin izlovchilar usulida qazib oluvchi subyektlar tomonidan qonunchilikka muvofiq fuqarolik-huquqiy shartnomalar tuzish yo‘li bilan baholanishi va taraflar istagan (kelishgan) narxlarda realizatsiya qilinishi (o‘z ishlab chiqarishida, garov narsasi yoxud boshqa moliyaviy majburiyat sifatida

foydalanilishi) mumkin. Shuningdek, qimmatbaho metallar va toshlar realizatsiyasini birja savdolari tashkil etish yo‘li bilan amalga oshirish ham fuqarolik-huquqiy munosabatlarning alohida turi hisoblanadi va boshqa fuqarolik bitimlardan farqli ravishda maxsus normalar bilan tartibga solinadi. Masalan, “Navoiy kon-metallurgiya kombinati” diler sifatida o‘z hisobidan oltin sotishi, zargarlik korxonalarida esa broker orqali mijozlar uchun oltin sotib olishi kabi.

Dissertant affinaj faoliyati qimmatbaho metallar bilan bog‘liq faqat texnologik jarayon emas, balki qimmatbaho metallarning fuqarolik muomalasida davlat nazoratini ta‘minlovchi muhim bosqich ekanini ta‘kidlaydi, sababi qimmatbaho metal affinaj qilib bo‘lingandan keyin uning qaysi manbadan kelib chiqqanini aniqlashning imkoni bo‘lmaydi. Shunga ko‘ra, affinaj bosqichigacha va affinajning qonuniyligi juda muhim hisoblanib, qimmatbaho metalning ikkilamchi mahsulotga aylanib, bozorga tovar sifatida taqdim etilganidan keyingi yuzaga kelishi mumkin bo‘lgan qonunbuzilishi holatlarini oldini oladi.

Shunday qilib, dissertant rivojlangan mamlakatlar tajribasi (Germaniya, Kanada, AQSh, Xitoy) hamda OECD (Organisation for economic co-operation and development- Iqtisodiy hamkorlik va taraqqiyot tashkiloti) Kimberley jarayoni, Dodd-Frank akti kabi xalqaro tuzilma va kelishuvlar mazmunida qimmatbaho toshlarni ishlab chiqarish, egalik qilish, foydalanish, realizatsiya qilishda hisobga olishning hujjatli asosda yuritilishi **“Traceability Doctrine” (Hujjatli kuzatuv) doktrinasi** tamoyillarini qo‘llash hamda ularni o‘z amaliyotiga joriy eta olish O‘zbekiston uchun manfaatli bo‘lishini ta‘kidlaydi.

Bugungi kunda jahonda zamonaviy raqamli texnologiyalarning jadal rivojlanishi fuqarolik-huquqiy munosabatlarda tub o‘zgarishlarni keltirib chiqarmoqda. Ayniqsa, qimmatbaho toshlar va metallar savdosida **“blokcheyn texnologiyasi”** va **“aqlli kontraktlar”**ning joriy etilishi (**“De Beers”, Everledger platformasi tajribasi**) muomala shaffofligi, aniqlik va xavfsizlik choralari hamda avtomatlashtirilgan nazorat imkoniyatlarini yaratishda muhim rol o‘ynamoqda.

“Qimmatbaho metallar va qimmatbaho toshlar muomalasi bilan bog‘liq qonunchilikni buzganlik uchun javobgarlik va sohaga oid qonunchilikni takomillashtirish masalalari” deb nomlangan uchinchi bobida qimmatbaho metallar va toshlar bilan bog‘liq ijtimoiy-huquqiy munosabatlarni tartibga soluvchi qonunchilikni buzganlik uchun fuqarolik-huquqiy javobgarlik belgilash, bu borada xorijiy mamlakatlar tajribasi hamda mamlakatimizdagi sohani tartibga soluvchi qonunchilikni takomillashtirish masalalari haqida so‘z boradi.

Qimmatbaho metallar va toshlar bozori ishtirokchilari bitimlar tuzishda Fuqarolik kodeksi normalariga tayangan holda shartnomaviy javobgarlikni mustaqil belgilash huquqiga ega, faqat bu javobgarlik majburiy(o‘zgacha) tarzda belgilab qo‘yilgan hollar bundan mustasno. Bundan tashqari, soha faoliyati doirasida shunday maxsus hujjatlar borki, davlat vakolatli tashkilotlari (Vazirlar Mahkamasi, Markaziy bank, Moliya vazirligi) tomonidan shakli, mazmuni, qo‘llanilish sohasi va doirasi oldindan tasdiqlangan bo‘ladi. Shunga ko‘ra, bu hujjatlar doirasida **“standart shartnomalar”** ishlab chiqiladi hamda ularni taraf sifatida davlat vakolatli organi qimmatbaho toshlar va metallarni sotib olishda davlat nomidan ishtirok etadi. Bunda

ishtirokchilar shartnomalarga faqat u yerda ko‘rsatilgan shartlar asosida, jumladan ***javobgarlik shartlari asosida*** qo‘shilishi mumkin.

Shartnomaviy va noshartnomaviy javobgarlik masalalari Buyuk Britaniya, Germaniya, Shveysariya, Belgiya kabi mamlakatlarda o‘ziga xos bo‘lib, London qimmatbaho metall bozori assotsiatsiyasi tomonidan tasdiqlangan “Good Delivery” sertifikatiga ega bo‘lmagan metallar muomalaga kiritilmaydi. OMC (Unallocated Metal Accounts) –“Obyektsiz metal hisobvaraqlar” va “Mas’ul saqlodagi metall hisobvaraqlar”- (Allocated Metal Accounts) hisobvaraqlari shartnomaviy huquq bilan tartibga solinadi, javobgarlik ham shartnomada qat’iy ko‘rsatilib, metallarni kechikib yetkazib berganlik uchun penyalari belgilanadi.

So‘nggi yillarda (2021-yildan boshlab) sun‘iy va tabiiy toshlarni farqlashda iste’molchilarni chalg‘itmaslik uchun yorliqlash va sertifikatlash bo‘yicha aniq talablar joriy etilmoqda. Bunda AQSh, Yevropa Ittifoqi, Germaniya va Fransiya kabi davlatlar qat’iy yondashuvlarni ishlab chiqqan. Bunda, ishlab chiqarishning ekologik ta’siri va energiya sarfi ham dolzarb muammolardan biri bo‘lib qolmoqda. Lekin dunyo bo‘ylab yagona xalqaro standartlarning yo‘qligi sun‘iy toshlar savdosida muammolar keltirib chiqarmoqda. Shu sababli, GIA (Gemological Institute of America – Amerika qimmatbaho toshlar instituti), “Gübelin”, “Gem Lab” kabi tashkilotlar xalqaro standartlar ishlab chiqishga harakat qilmoqda. Bundan tashqari, “nizoli toshlar” tushunchasi ham xalqaro savdoda e’tiborga olinadi, chunki urush zonalarida qazib olingan toshlar inson huquqlari buzilishiga sabab bo‘lishi mumkin. Ba’zi davlatlarda esa “yarim qimmatbaho toshlar” atamasi bilan noan’anaviy minerallar ham qonunchilik bilan tartibga solingan. O‘zbekiston huquqiy tizimi xalqaro tajriba bilan solishtirganda ma’lum darajada asosga ega, ammo sun‘iy va organik toshlar maqomini aniq belgilash, ularni tasniflash va huquqiy tartibga solish borasida qo‘shimcha normativ-huquqiy mexanizmlar ishlab chiqish zarurati mavjud.

1. Xalqaro tashkilotlar va O‘zbekistonning integratsion qadamlari: 2025-yil mart oyiga kelib, AQSh Davlat departamenti O‘zbekistonning Kimberly jarayoni “Sertifikatlash sxemasi” bo‘yicha a’zo sifatida qo‘shilganini rasman e’lon qildi. Shuningdek, Yevropa Ittifoqi va O‘zbekiston 2024-yil aprel oyida CRM (Customer Relationship Management - Mijozlar bilan munosabatlarni boshqarish) bo‘yicha ***strategik hamkorlik memorandumini*** imzolagan bo‘lib, bu o‘zaro bilim almashinuvi, innovatsiyalarni joriy etish va minerallarni barqaror qazib olishga xizmat qilmoqda. 2024-yilda AQSh va O‘zbekiston “mineral resurslar yetkazish zanjirlarini diversifikatsiya qilish” yuzasidan anglashuv memorandumini imzoladi. Maqsad “toza energiya”ga o‘tish va ekologik barqarorlikni ta’minlash. 2019-yilda OKMK (Olmaliq kon-metallurgiya kombinati) va Janubiy Koreya hamkorligida nodir yer elementlarini qazib olishga oid ilk ilmiy markaz tashkil etilgan.

2. Qonunchilik va xalqaro standartlar: Bugungi kunda O‘zbekistonda qimmatbaho metallar muomalasi asosan ichki me’yoriy hujjatlar, yopiq davlat reyestrlari orqali tartibga solinadi. Biroq xalqaro tajribani inobatga olgan holda, ushbu tizimni quyidagicha takomillashtirish lozim: LBMA, CIBJO (The World jewellery confederation - Jahon qimmatbaho toshlar konfederatsiyasi), AGTA (American gem trade association-Amerika qimmatbaho tosh savdo assotsiatsiyasi)

kabi tashkilotlar standartlarini milliy qonunchilikka joriy qilish lozim. Masalan, Navoiy KMK kabi affinaj zavodlari LBMA ning **“Good Delivery”** mezonlariga mos mahsulot ishlab chiqarishni yo‘lga qo‘yishi orqali O‘zbekiston oltini xalqaro bozorlarda tan olinadi. Xalqaro qimmatbaho metallar institutlariga a‘zo bo‘lish texnologik innovatsiyalar, ilmiy-tadqiqot loyihalari, “best practice” tajribalari va investorlar bilan aloqalarni kuchaytiradi. Raqamli nazorat tizimlarini (“blockchain”, “IoT - Internet of Things”, ERP ni (Enterprise Resource Planning - Korxonalar resurslarini rejalashtirish) joriy qilish orqali qimmatbaho metallar harakatini monitoring qilish va korrupsiyaviy xavflarni kamaytirish mumkin. IFRS (International Financial Reporting Standards - Xalqaro moliyaviy hisobot standartlari) moliyaviy hisobot standartlarini joriy etish orqali oltin va boshqa metallar aktiv sifatida moliyaviy hisobotda aniq aks ettiriladi.

Shuningdek, ilmiy ish mazmunida milliy qonunchilikda mavjud bo‘lgan “davlatning qimmatbaho metallarni xarid qilishdagi imtiyozli huquqi” aslida “sotish majburiyati” sifatida talqin qilinmoqda. Shu bois, mazkur normaning huquqiy ifodasi “davlatning ustuvor xarid huquqi” yoki “sotish bo‘yicha majburiy taklif” sifatida yangilanishi maqsadga muvofiq.

3. Qimmatbaho metallarda bank xizmatlari: omonatlar va hisobvaraqlar: Rossiya, Qirg‘iziston, Tojikiston, Indoneziya tajribasiga ko‘ra, qimmatbaho metallar asosidagi bank omonatlari va hisobvaraqlarining yuritilishi qonunchilik bilan tartibga solingan. O‘zbekistonda ham mazkur amaliyotni joriy etish uchun Fuqarolik kodeksiga quyidagi mazmundagi yangi norma kiritish taklif etiladi:

770¹-modda. “Qimmatbaho metallar shaklidagi bank omonati shartnomasi”-“Omonat predmeti muayyan qimmatbaho metall (oltin, kumush) bo‘ladi. Bank mijozga metallni o‘sha turda va og‘irlikda qaytarishi yoki uning qiymatiga teng pul mablag‘ini to‘laydi. Ushbu shartnomalar bo‘yicha sug‘urtalash majburiyati mavjud emas, ammo mijoz bu haqda ogohlantiriladi.” Shuningdek, “qimmatbaho metallardagi bank hisobvaraqlari” haqidagi maxsus norma joriy etilishi taklif etiladi. Bu banklarda metall omonatlari yuritish, investitsiyalarni jalb qilish va resurslar bilan moliyaviy operatsiyalarni soddalashtirishga xizmat qiladi.

4. Banklar tomonidan xizmat ko‘rsatishning boshqa muhim shakllari.

- Markaziy bank tomonidan muomalaga chiqarilgan o‘lchovli oltin quymalarni bankning mobil ilovasi orqali sotish va qaytarib sotib olish;

- qimmatbaho metallarni elektron (jismoniy bo‘lmagan) ko‘rinishda sotish va qaytarib sotib olish xizmatini amaliyotga joriy etish taklif etiladi.

Hozir O‘zbekistonda o‘lchovli quymalarni tijorat banklari orqali sotish, sotib olish amaliyoti bor, bunda ushbu mexanizmni yanada soddalashtirish, xizmatlarni elektronlashtirish, yangi xizmatlarini amaliyotga joriy qilish zarurati mavjud.

Shuning uchun, banklar tomonidan qimmatbaho metallarni mas‘ul saqlash hamda egasizlantirilgan (jismoniy bo‘lmagan) hisobvaraqlarini ochish, yuritish va yopish faoliyatining tashkiliy-huquqiy mexanizmlarini ishlab chiqish lozim. Shunga ko‘ra, yuqorida qayd etilgan jahon mamlakatlari va xalqaro tashkilotlar tajribasini milliy qonunchilikka tadbiq etgan holda **“qimmatbaho metallarni mas‘ul saqlash hisobvaraqlari”**ni hamda **“qimmatbaho metallarning egasizlantirilgan (jismoniy bo‘lmagan) hisobvaraqlari”**ni ochishning huquqiy asoslarini alohida normativ hujjat

shaklida ishlab chiqish taklif etiladi. Shuningdek, banklar tomonidan mijozlar bilan qimmatbaho metallarni elektron (jismoniy bo‘lmagan) ko‘rinishda **banklarning mobil ilovasi orqali** sotish va sotib olishni joriy etish ko‘rsatiladigan bank xizmatlarini sifat jihatdan yangi bosqichga olib chiqishga yordam beradi.

XULOSA

“Qimmatbaho toshlar va metallar bilan bog‘liq munosabatlarni fuqarolik-huquqiy tartibga solishning ayrim masalalari” mavzusidagi tadqiqot ishi natijasida quyidagi ilmiy-nazariy, amaliy taklif va xulosalar ishlab chiqildi:

I. Ilmiy-nazariy xulosalar:

1. Fuqarolik huquqi erkin kelishuv asosidagi dispozitiv xarakterga ega huquqiy munosabatlarni belgilab berish bilan birga, qimmatbaho toshlar va qimmatbaho metallar kabi strategik resurslarni tartibga solishda foydalaniladigan xalqaro konsepsiyalarni davlatlar tomonidan qo‘llashning maxsus fuqarolik-huquqiy rejimlarini joriy qiladi.

Birinchi, davlatlarning o‘z hududida joylashgan yer osti qazilma boyliklarga nisbatan mustaqil egalik qilish, boshqarish va ulardan foydalanish huquqini e‘tirof etuvchi **“Permanent sovereignty over natural resources” (Tabiiy resurslar ustidan suverenitet)** konsepsiyasi hamda uning mantiqiy davomi bo‘lgan **“Regulated Private Ownership Doctrine” (Nazorat ostidagi mulk huquqi)** doktrinasini orqali qimmatbaho metallar va toshlar davlatdan boshqa subyektlar mulkida bo‘la olishi mumkin degan xulosaga kelindi.

Ikkinchi, sohaga oid xalqaro konvensiyalar va “soft-law” hujjatlarida belgilanganidek, qimmatbaho metallar va toshlarning manbai, egalik zanjiri va qonuniy kelib chiqishini aniqlash **“Traceability Doctrine” (Hujjatli kuzatuv)** doktrinasiga asoslanadi. Shuningdek, **“Davlat ustuvor xarid qilish huquqi”** hukumatning strategik resurslarni birinchi bo‘lib sotib olishiga doir masalalarni belgilab berishi ko‘rib chiqildi.

2. Dissertatsiyada olib borilgan tahlillar asosida amaldagi qonunchilikka o‘zgartirish va qo‘shimcha kiritish uchun **“qimmatbaho toshlar” huquqiy tushunchasiga** nisbatan quyidagi doktrinal mualliflik ta‘rifi ishlab chiqildi: “qimmatbaho toshlar - bu yer osti qazilma boyliklarini qazib olish natijasida tabiiy usulda qo‘lga kiritilgan va sun‘iy/sintetik shaklda laboratoriya sharoitida, inson mehnati omili natijasida yaratilgan tosh tasnifiga kiritiluvchi minerallardir. Qimmatbaho toshlar turkumiga kiruvchi qazilma boyliklarining boshqa individual xususiyatlari va iqtisodiy-qiymatlilik belgilari qimmatbaho toshlarga oid munosabatlarni texnik jihatdan tartibga soluvchi reglamentlar bilan belgilab beriladi. Qahraboning noyob hosilalari qimmatbaho toshlarga tenglashtirilishi mumkin.”

3. Dissertatsiya doirasida qimmatbaho toshlar va qimmatbaho metallarni sanoat usulida yuridik shaxslar hamda oltin izlovchilar usulida jismoniy shaxslar tomonidan qazib olinishi, realizatsiya qilinishiga ruxsat berilishining tashkiliy huquqiy asoslari, shuningdek, ushbu faoliyat amalga oshirilishining fuqarolik-huquqiy tomonlari ko‘rib chiqildi. Xususan, O‘zbekiston Respublikasi qonunchiligida belgilangan tartibda qo‘lga kiritilgan qimmatbaho metallar va

qimmatbaho toshlar davlat mulki, yuridik hamda jismoniy shaxslarning mulkida mavjud bo'lishi mumkin. Qimmatbaho metallar va qimmatbaho toshlarning mulkdori Fuqarolik kodeksi va boshqa maxsus qonunchilik hujjatlariga ko'ra, qimmatbaho metallar va qimmatbaho toshlarga o'zlarining mulk huquqi (egalik qilish, foydalanish, tasarruf etish)ni amalga oshirishi haqida batafsil to'xtalib o'tildi.

4. Milliy qonunchilikka **“sun'iy/sintetik toshlar”** tushunchasini kiritish va ular bilan bog'liq fuqarolik-huquqiy munosabatlarni alohida, maxsus normalar bilan tartibga solishni joriy etish taklif etiladi. Sababi, laboratoriya sharoitida yaratilgan sun'iy qimmatbaho toshlar muomalasi bilan bog'liq nizoli holat O'zbekiston hududida yuzaga kelgan vaqtda, unga nisbatan to'g'ri huquqiy yechim berish milliy yurisdiksiya uchun muhim hisoblanadi. Shundan uchun, bizning nazarimizda, tabiiy kelib chiqishga ega olmos savdosiga qo'yilgan huquqiy talablar bilan inson mehnati natijasida laboratoriya sharoitida ishlab chiqarilgan olmosga nisbatan tatbiq etiladigan huquqiy rejim (yetkazib berish, baholash, realizatsiya qilish, javobgarlik va b.) albatta farqlanishi lozim.

5. “Qimmatbaho toshlar” atamasining eng jiddiy kamchiligi – bu uning **“yarim qimmatbaho toshlar”** atamasiga antonim (qarama-qarshi ma'no) bo'lishidir. Amaldagi Qonunning asosiy huquqiy tushunchalar qismiga “yarim qimmatbaho toshlar” atamasini kiritish tavsiya qilinadi. Sababi, qimmatbaho toshlar ham, yarim qimmatbaho toshlar ham o'zining muomalada bo'lish yo'nalishlarida farqlarga ega bo'lib, ushbu tushunchaning qonunchilik darajasida tavsiflanishi maqsadga muvofiq.

6. Minerallarning chin qiymati faqat uning narxda emas, balki ilmiy, tibbiy yoki kolleksion qiymatida ham bo'lishi mumkin. Agar qimmatli toshlar ro'yxatiga ishlab chiqarishda, savdoda foydalanilmaydigan, biroq o'zining noyobligi, tashqi ko'rinishi, tibbiy xususiyati, ilmiy ahamiyati va shunga o'xshash belgilariga ko'ra betakror bo'lgan minerallar kiradigan bo'lsa, bu holda gap qimmatbaho tosh haqida emas, balki uning kolleksion, tibbiy yoki ilmiy ahamiyati haqida ketayotgan bo'ladi. Shu sababli, qimmatbaho toshlar va boshqa maqsadlar uchun mo'ljallangan toshlar kategoriyasini qonunchilikda alohida-alohida e'tirof etish taklif qilinadi. Dissertatsiya doirasida qonunchilik darajasida tartibga solingan qimmatbaho toshlarni **“darajalar-kategoriyalar” (iyerarxiya) bo'yicha tasniflash** taklif etiladi.

7. Fuqarolik huquqining ustuvor maqsadi insonlar, xususan, mulkdorlar o'rtasidagi munosabatlarni, bitimlarni tomonlar uchun adolat mezonlari doirasida amalga oshirilishini ta'minlashdan iborat. Shunga ko'ra, qonunchilikka “valyuta bitimi” yoki “qimmatbaho metallar bilan bitim” tushunchasini olib kirish taklif etiladi, Sababi, normativ-huquqiy hujjatlarda faqat **“qimmatbaho metallar bilan operatsiyalar”** atamasi mavjud bo'lib, u “bitim” tushunchasidan ancha kengroq.

8. Yuqoridagi paragraflarda **“imtiyozli sotib olish huquqi”** haqida so'z bordi. Bunda tahlillar shuni ko'rsatadiki, qimmatbaho toshlar va qimmatbaho metallar muomalasi jarayonida ishlatiladigan “imtiyozli sotib olish huquqi” tushunchasi mazmuni fuqarolik huquqiy ma'nodagi ya'ni shartnomaviy munosabatlardan kelib chiquvchi “imtiyozli sotib olish huquqi”ga teng emas. Balki bu yerda qimmatbaho toshlar va qimmatbaho metallarning dastlabki egasi tomonidan ushbu boyliklarni davlatga sotish taklifini berish majburiyati haqida gap bormoqda (aslida bu “xarid qilish huquqi” emas, balki “sotish majburiyati”dir). Shu bois, “Qimmatbaho metallar

va qimmatbaho toshlar to'g'risida"gi O'zbekiston Respublikasi Qonunida ishlatilgan terminologiyani ikki ta huquqiy tushunchaning bir biridan mazmun jihatidan ajralib turishini ta'minlaydigan shakl da ifodalash taklif etiladi.

9. Qimmatbaho toshlar va metallar ustidan mulk huquqi *qazib olish, xazina topish, topilma, qayta ishlash (toshni sayqallash, boyitish, rudadan quyma eritish va hokazo)* kabi boshlang'ich asoslarda vujudga kelishi mumkin. Mulkni boshqa shaxsga o'tkazish, natsionalizatsiya, rekvizitsiya, musodara, qonunga muvofiq ayrim shaxslarga tegishli bo'lmaydigan mulkni sotib olish, egasiz saqlanayotgan qayta ishlanmagan qimmatbaho tosh va metal ko'rinishidagi boyliklarni majburiy sotib olish kabi hosila asoslarda ham mulk huquqi vujudga keladi.

10. Affinaj korxonalarining yuridik shaxslar va oltin izlovchi jismoniy shaxslar bilan qimmatbaho metallarni sotib olish shartnomasi tuzishi misolida, ushbu harakatning fuqarolik-huquqiy xususiyatlari, xususan, taraflarning huquq va majburiyatlari, fuqarolik-huquqiy javobgarlik masalalari ko'rib chiqildi.

Birlamchi mahsulot holatidagi qimmatbaho metallar muomalasi fuqarolik huquqida boshqa obyektlardan farqli ravishda "nazorat ostidagi mulk huquqi" (Regulated private ownership doctrine) doktrinasi asosida, maxsus qonunchilik normalari bilan tartibga solinadi. Shu sababdan, unga doir munosabatlar an'anaviy shartnomalar doirasida hamda fuqarolik huquqining maxsus normalari aralashuvida amalga oshiriladi.

11. Qimmatbaho toshlar va metallar muomalasidagi dastlabki munosabatlardan farqli o'laroq, zargarlik sohasidagi munosabatlar qimmatbaho toshlar va metallarning ikkilamchi mahsulotga aylangan holatidagi munosabatlarni o'z ichiga oladi. Bunda zargarlik sanoatida zargarlar tomonidan qimmatbaho metal va toshlarga nisbatan mulk huquqi ikki ta fuqarolik-huquqiy munosabat, ya'ni birja savdolarni tashkil etish hamda taraflarning uchinchi shaxslar aralashuvisiz to'g'ridan-to'g'ri shartnomalar tuzishi orqali amalga oshirilishi tartibotlari haqida to'xtalib o'tildi.

II. Tadqiqot natijalari bo'yicha qonunchilik va huquqni qo'llash amaliyotini takomillashtirishga oid taklif va tavsiyalar:

12. "Blokchain" ma'lumotlar zanjiri, "smart kontraktlar" rasmiylashtirishning huquqiy asoslarni Gruziya, Maldiva, Estoniya, Shveysariya, AQSh, Singapur kabi davlatlar o'z Fuqarolik kodeksi normalarida belgilab qo'ygan. Qimmatbaho toshlar, metallar muomalasini tartibga soluvchi hujjatlarga, xususan, Fuqarolik kodeksi, "Qimmatbaho toshlar va metallar to'g'risida"gi O'zbekiston Respublikasi Qonuniga "blokchain", "smart shartnomalar" haqidagi normalarni kiritish taklif etildi.

13. AQSh, Germaniya, Shveysariya, Rossiya Federatsiyasi, Tojikiston, Qirg'iziston, Indoneziya kabi davlatlarning qimmatbaho metallarga asoslangan bank xizmatlarini tartibga solishga oid qonunchilik normalarini ijobiy tomonlarini olgan holda O'zbekiston Respublikasi Fuqarolik kodeksiga "*Qimmatbaho metallar shaklidagi bank omonati shartnomasi*" (Fuqarolik kodeksi 770¹-modda) hamda "*Qimmatbaho metallardagi bank hisobvarag'i shartnomasi*" (Fuqarolik kodeksi 789¹-modda) shaklida qo'shimchalar kiritish taklif etiladi.

14. Tijorat banklari tomonidan qimmatbaho metallarning *mas'ul saqlash hisobvaraqlarini* hamda *qimmatbaho metallarning egasizlantirilgan (jismoniy bo'lmagan) hisobvaraqlarini* ochish, yuritish va yopish faoliyatining tashkiliy-

huquqiy mexanizmlarini ishlab chiqish zarurati mavjud. Shunga ko‘ra, yuqorida qayd etib o‘tilgan jahon mamlakatlari hamda xalqaro tashkilotlar tajribasini milliy qonunchilikka tadbiq etgan holda qimmatbaho metallarning mas‘ul saqlash hisobvaraqlarini hamda qimmatbaho metallarning egasizlantirilgan (jismoniy bo‘lmagan) hisobvaraqlarini ochishning huquqiy asoslarini alohida normativ-huquqiy hujjat shaklida ishlab chiqish taklif etiladi.

15. O‘zbekiston Respublikasining 2024-yil 31-oktyabrdagi “Yer qa’ri to‘g‘risida”gi O‘RQ–987-son Qonunining 3-moddasida tavsiflangan “qimmatbaho toshlar” huquqiy tushunchasini “qimmatbaho toshlar - bu yer osti qazilma boyliklarini qazib olish natijasida tabiiy usulda qo‘lga kiritilgan va sun‘iy/sintetik shaklda laboratoriya sharoitida, inson mehnati omili natijasida yaratilgan tosh tasnifiga kiritiluvchi tabiiy minerallardir” mazmunida qayta tahrirlash taklif etiladi.

16. O‘zbekiston hozirda Kimberliy jarayonidagi eng muhim va muvaffaqiyatli yo‘nalishlaridan biri *sertifikatlash tizimi*ning to‘la qonli a‘zosi hisoblanadi (2024-yil aprel oyidan boshlab). Shunga ko‘ra, O‘zbekistonda qimmatbaho toshlar va qimmatbaho metallar muomalasini huquqiy jihatdan tartibga solishni xalqaro standartlar talabi darajasiga olib chiqish uchun mamlakatimiz *CIBJO* (The World jewellery confederation - Jahon qimmatbaho toshlar konfederatsiyasi), *AGTA* (American gem trade association-Amerika qimmatbaho tosh savdo assotsatsiyasi), *LBMA* (London bullion market association –London qimmatbaho metallar bozori uyushmasi) kabi xalqaro tashkilotlar a‘zosiga aylanishi maqsadga muvofiq. Bunda, LBMA standartlarini, xususan, “*Good Delivery*” mezonlarini qabul qilish hamda O‘zbekistonda qimmatbaho toshlar va metallarni qazib oluvchi, affinaj qiluvchi zavodlarining (masalan, “Navoiy KMK” AJ, “Olmaliq KMK” AJ) ushbu talablarga mos ravishda mahsulot ishlab chiqarishni yo‘lga qo‘yish kerak. Bu O‘zbekiston oltinining jahon bozorlarida tan olingan brendga aylantirish imkonini beradi.

17. Afrikaning Zimbave tumanidagi nizoli holat misolida o‘rganilgan “konflikt toshlar” (nizoli toshlar) aylanmasi bilan bog‘liq holatlarda, ya’ni nizo, urush ketayotgan hududlardan yoki tabiatga, insoniyatga o‘ta zarar berish yo‘li bilan qazib olingan hududlardan kelib chiqqan qimmatbaho toshlar va metallar savdosi xalqaro bozorda qat’iy taqiqlangan. Yuqorida ijobiy tajribasi o‘rganilgan Amerika Qo‘shma Shtatlari, Yevropa Ittifoqi davlatlari, Australiya, Kanada kabi davlatlarga o‘xshab O‘zbekiston hududida ham “*nizoli toshlar*” muomalasini belgilashda, ayniqsa, import qimmatbaho toshlarni mamlakatimiz hududiga olib kirishdagi huquqiy rejimlarni o‘rnatishda nafaqat qimmatbaho materiallarning nomi, sifati balki qaysi hududdan kelib chiqqani kabi mezonlar bo‘yicha ham ma’lumot taqdim etish talabini qonunchilikka kiritish taklif etiladi.

18. Xalqaro tashkilotlardan biri sifatida *CIBJO* tomonidan ishlab chiqilgan zargarlik toshlari, organik moddalar va sun‘iy mahsulotlarga doir *terminologiya va tasniflash standartlarini* milliy qonunchilikka tatbiq qilish taklif qilinadi. Sababi, ushbu Konfederatsiya tomonidan ishlab chiqilgan zargarlik minerallari, organogen va sun‘iy qimmatbaho materiallarning 150 taga yaqin savdo nomlari jahon savdosida foydalanilmoqda.

19. *AGTA tashkilotining* rasmiy qo‘llanmasida 40 tadan ortiq qimmatbaho tosh nomlari ajratib ko‘rsatilgan bo‘lib, mazkur Assotsiatsiya qimmatbaho

toshlarning eng yuqori axloqiy standartlari, xususan, tosh xususiyatlari haqidagi ma'lumotlarni to'liq oshkor qilish va sifat kafolatlari bilan tanilgan. Ushbu Assotsiatsiya tomonidan ishlab chiqilgan standartlar va kodlar butun dunyo bo'ylab qo'llaniladi. Bu qimmatbaho toshlar sanoatida ishonch va shaffoflikni ta'minlashda muhim rol o'ynaydi. Shunga ko'ra, ushbu tashkilot zamonaviy tajribasini qimmatbaho toshlar va qimmatbaho metallar muomalasi jarayonida foydalaniladigan milliy normativ-huquqiy hujjatlar va texnik qoidalarga tatbiq qilish taklif etiladi.

20. Qonunchilikni "*Atrof-muhit va barqaror rivojlanish talablari*"ga moslashtirish (ESG), ya'ni qayta ishlangan elektron chiqindilardan oltin olish (urban mining) siyosatini ishlab chiqish lozim. Bunda ushbu islohotlar ekologik va ijtimoiy mas'uliyatni oshirishga xizmat qiladi.

III. Tadqiqot natijalaridan foydalanib o'quv-uslubiy ishlarning samaradorligini oshirish bo'yicha tavsiyalar:

21. O'zbekiston Respublikasining 2021-yil 23-avgustdagi "Qimmatbaho metallar va qimmatbaho toshlar to'g'risida"gi O'RQ – 710-son Qonuni normalarini jismoniy va yuridik shaxslar tomonidan amaliyotda to'g'ri va bir xilda qo'llanilishini ta'minlash maqsadida ushbu qonun hujjati bo'yicha ilmiy-amaliy sharh tayyorlash tavsiya etiladi.

22. Qimmatbaho metallar va qimmatbaho toshlarning fuqarolik muomalasi jarayonida yuzaga keladigan nizolarni sudlarda hal qilishning samaradorligini oshirish maqsadida O'zbekiston Respublikasi Oliy sudining "Qimmatbaho toshlar va qimmatbaho metallarning fuqarolik muomalasida bo'lishiga oid qonun hujjatlarini qo'llashning ayrim masalalari haqida" Plenum qarori loyihasi ishlab chiqish tavsiya etiladi.

23. Qimmatbaho metallar va qimmatbaho toshlar muomalasini fuqarolik-huquqiy jihatdan tartibga solishni ilmiy va o'quv-uslubiy o'rganish samaradorligini oshirish uchun yuridik ta'lim muassasalarida "Fuqarolik huquqi", "Shartnoma huquqi", "Majburiyat huquqi" kabi o'quv fani dasturlariga "*Tabiiy resurslar muomalasini fuqarolik-huquqiy tartibga solish*" mavzusini kiritish va bu bo'yicha o'quv qo'llanmalar tayyorlash tavsiya etiladi.

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TASHKENT STATE UNIVERSITY OF LAW

SETTIEVA ADOLAT FAKHRIDDIN KIZI

**CERTAIN ISSUES OF CIVIL-LEGAL REGULATION OF RELATIONS
INVOLVING PRECIOUS STONES AND PRECIOUS METALS**

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 doctoral dissertation is available at the Information Resource Center of the Tashkent State University of Law (registered with the number 1432). (Address: 100047, Tashkent city, Amir Temur street, 13. Tel.: (99871) 233-66-36).

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INTRODUCTION (abstract of the doctoral (PhD) dissertation)

The actuality and relevance of the dissertation theme. Throughout the world, precious metals and gemstones have been considered strategic resources that ensure the continuous income, financial stability, and economic security of states, as well as of individuals and legal entities. In 2025, the global precious metals market turnover was valued at USD 327.47 billion, and it is expected to reach USD 533.12 billion by 2032. This demonstrates a compound annual growth rate (CAGR) of 7.2% from 2025 to 2032. Likewise, the global market for precious stones is also set to significantly expand, growing from USD 36,044.1 million in 2025 to USD 68.151 million by 2035, with an expected CAGR of 6.6% during this period. Accordingly, it has become a requirement of the time to develop doctrinal concepts for the civil-legal regulation of transactions involving precious metals and gemstones, to implement modern information technologies in the industry, and to improve the existing civil-law framework.

The legal study of relations involving precious metals and gemstones—especially in the areas of extraction, processing, supply, and storage—as well as improving the legal foundations for regulating digital assets and virtual property related to precious metals and stones, is gaining importance as a research area with both scientific and practical significance. In foreign countries, several legal doctrines regulate civil-law relations concerning precious metals and gemstones. These include: the “Regalian Right” (*Jus Regale*) – The Doctrine of State Ownership; The “Responsible Sourcing Doctrine”; the “State Pre-Emptive Rights” (The state's priority purchase right); the “Traceability Doctrine.” In this context, among the most significant international initiatives regulating the trade of gemstones, particularly diamonds, is *the Kimberley Process*, and in regard to precious metals, *the London Bullion Market Association (LBMA)* mandates that every batch of precious metal must be documented and traceable from the point of extraction to final sale, emphasizing the importance of the Traceability Doctrine.

In our country, as outlined in the “Development Strategy of New Uzbekistan for 2022–2026,” every individual is guaranteed the right to benefit from the legal rights and interests created by a free civil society. As such, ensuring the effective protection of the rights of subjects involved in the circulation of precious metals and gemstones remains a pressing issue today. In this regard, national legal reforms aimed at improving sectoral regulation have already been initiated. These include clarifying restrictions on the circulation of precious metals, expanding the range of industry participants, liberalizing the licensing process, and other measures. Furthermore, under the framework of the “*Digital Uzbekistan – 2030*” strategy, ensuring the stability, quality, and efficiency of legal regulation in social relations, promoting regulatory impact assessments of legislative acts, enhancing the competitiveness of the legal system, and revising the requirements for modern technologies and digital operations are considered top priorities for the comprehensive development of the legal system. These objectives underscore the importance of aligning national legislation in this field with international standards.

Therefore, the study of civil-law regulation of relations involving precious metals and gemstones, and the step-by-step modernization of the industry in line with contemporary demands, remain among the key strategic directions of legal development in every country. For example, in 2020, Uzbekistan extracted 101.6 tons of gold, ranking 8th globally in gold production. In 2024, Uzbekistan was again included among the top 10 gold-producing countries in the world, according to an article in Forbes magazine based on data from the World Gold Council.

The present research contributes to the implementation of tasks outlined in a number of legal documents of the Republic of Uzbekistan, including: the Constitution of the Republic of Uzbekistan (1992), the Civil Code of the Republic of Uzbekistan (1995, 1997), the Law of the Republic of Uzbekistan “On Precious Metals and Precious Stones” No.710 (2021), the Law “On Subsoil” No.987 (2024), Presidential Decree No.4030 “On Measures to Create Conditions for the Extraction of Precious Metals by Prospector Method” (2018), the Cabinet of Ministers' Resolution “On Improving the Procedure for Providing Discounts to Entrepreneurial Entities Creating Jobs in the Jewelry Sector through Exchange and Direct Sales of Precious Metals” (2024), and other relevant legislation.

The relevance of the research to the priority areas of development of science and technology in the country. This dissertation has been conducted under the priority area titled: “Forming and Implementing a System of Innovative Ideas in the Social, Legal, Economic, Cultural, and Spiritual-Educational Development of an Informed Society and a Democratic State.

The extent of study of the problem. In legal literature, it is recognized that precious stones and precious metals are objects that reflect the specific features of civil law regulation. However, up to now, no scientific-theoretical research has explored in detail the primary circulation of precious stones and metals, the characteristics of their classification as special objects of civil legal relations in this process, nor the specific mechanisms of their regulation.

In addition, although technical and economic research has been conducted in the mining and metallurgy sectors in our country, there is no clear evidence of any specific monographs or dissertations devoted to the legal aspects of the circulation of extracted precious metals and gemstones.

Our national legal scholars such as I.B. Zokirov, H.R. Rakhmonqulov, O. Oqyulov, I.R. Rustambekov, N.F. Imomov, J.I. Yuldashev, B.R. Topildiev, J.I. Babaev, and Q.M. Mehmonov have studied the foundations of legal regulation in the Republic of Uzbekistan concerning property rights, real rights, objects with a special regulation regime under civil law, and intellectual property relations.

In the CIS (Commonwealth of Independent States) countries, scholarly works in this field have been produced by legal scholars such as S.I. Popova, D.O. Shniger, A.Y. Fedorov, R.M. Olimova, M.A. Zinkovski, S.A. Rebrovski, and V.G. Gadiatov. Moreover, Ukrainian scholars including K. Dikhtyarenko, O.M. Malichenko, V. Romanov, and Y. Titova have published monographs on this topic. D.O. Shniger, in his research, attempted to express the view that precious stones and precious metals in Russian Federation markets are unique objects of civil law.

In Europe, the legal digitalization of relationships involving precious stones and metals and the distinct features of regulatory regimes have been discussed in the academic works of scholars such as Carola Kantz and Anandasivam (UK), Laurent E. Cartier (Switzerland), Barbara Harlow (USA), Daniel Franks (Australia), Eva-Maria Kieninger (Germany), Chung Shou-Ping and Lin Gin (China), H. Schulte-Nolke (University of Osnabrück, Germany), Yaman Gursel (Turkey), and A. Vasik (Poland).

Legal scholar Carola Kantz, in her work “Precious stones, black gold and the extractive industries: accounting for the institutional design of multi-stakeholder initiatives”, analyzes the institutional framework of multi-regional soft-law mechanisms such as the Kimberley Process (KP) and the Extractive Industries Transparency Initiative (EITI) in the context of resources like precious stones, gold, and “black gold” (oil).

Scholar L.E. Cartier has conducted research on tracking the origin of precious metals and gemstones through blockchain technology, including identifying fake stones and ensuring traceability.

Relation of the dissertation research with the research plans of the higher educational institution where the dissertation is performed. The dissertation topic has been developed in accordance with the research agenda of the Tashkent State University of Law, under the theme “Certain Issues of Civil-Legal Regulation of Relations Involving Precious Stones and Precious Metals.”

The research aims to study the specific features of civil-legal regulation of primary relations involving the circulation of precious stones and metals, and to develop proposals and recommendations aimed at improving the relevant legislation.

Research tasks include the following:

to develop new scientific and theoretical ideas by analyzing the legal nature of precious stones and metals, including the conceptual and doctrinal understanding of such resources;

to analyze, evaluate, and determine the necessity of improving legal concepts that form the institution of precious metal and gemstone circulation;

to examine both theoretically and practically the definitions, essence, and development prospects of precious metals and gemstones based on national and foreign legal norms;

to study the legal history of relations involving the extraction, ownership, use, and disposition of precious metals and gemstones;

to analyze the legal grounds for implementing relationships involving precious metals and gemstones, including the application of such laws in practice;

to establish the legal regime during and after the extraction process of precious stones and metals from underground deposits, specifically by identifying ownership-related restrictions and encumbrances on such resources;

to describe the legal situations that give rise to and terminate ownership rights over precious metals and gemstones;

to analyze normative legal acts and law enforcement practices from developed foreign countries that regulate the circulation of precious metals and gemstones, and

to develop proposals and recommendations for improving national legislation accordingly.

Object of the research is the civil-legal relations involving precious stones and precious metals.

Subject of the research consists of theoretical concepts, legal issues, and legislative norms concerning the civil-legal regulation of relations involving precious stones and precious metals.

Research methods. The research employed generalization, systematic approach, historical analysis, logical analysis, clarification, study of statistical and practical materials, and comparative-legal analysis methods.

The scientific novelty of the research consists of the following:

it has been substantiated that proposals directed at the simplification of existing mechanisms of legal regulation applied to entities participating in jewelry activities within the precious metals and precious stones market. In particular, it advances the argument for easing statutory licensing requirements and monitoring obligations, thereby contributing to the reduction of excessive administrative barriers in entrepreneurial practice;

it provides a reasoned justification for abolishing certain organizational-legal forms, procedures, and legal concepts enshrined in legislation governing civil-law relations in the sphere of circulation of precious metals and stones, which, due to changes in socio-economic conditions, have lost their regulatory relevance. This ensures a more coherent and up-to-date legislative framework;

it also substantiates proposals concerning the legal status of waste and scraps generated in the course of production, processing (re-processing), and use of precious metals and stones. It is argued that such waste and scraps may lawfully remain in the ownership or operational management of the respective business entities, thereby reinforcing the principle of autonomy of property rights in civil law;

it advances proposals aimed at expanding both the scope of statutorily designated entities authorized to participate in the hallmarking of jewelry and other items made of precious metals and stones, and the range of their associated powers. At the same time, it justifies the harmonization of legal concepts in the legislation on precious metals and stones with those employed in banking and financial legislation, thereby ensuring systemic consistency of the legal order.

The practical results of the research include:

the scope of participants in civil-law relations involving precious stones and precious metals, as well as their legal capacity has been clarified;

the rights, obligations, and liability issues of the participants in civil-law relations involving precious stones and precious metals have been further developed;

the civil-legal status and distinctive features of relations involving precious stones and precious metals have been studied, and proposals for amendments and additions to the Law of the Republic of Uzbekistan “On precious metals and precious stones” have been substantiated;

the importance of introducing NFC (Near field communication) technologies, blockchain-based information transmission systems, and other electronic tools for

payments in e-commerce transactions in the market of precious stones and precious metals, as well as the conclusion of “smart contracts,” has been substantiated.

The reliability of the research results. The research findings are based on legislative norms of both national and foreign countries, best practices from developed legal systems, and statistical data provided by competent state bodies such as the State Committee on Geology and Mineral Resources and the State Assay Chamber. The conclusions, proposals, and recommendations have undergone validation (approbation) and have been published in leading national and international journals. In addition, surveys have been conducted among legal experts, and the implementation of the results in practice has been confirmed by official records from relevant state bodies.

Scientific and practical significance of the research results. The research contains theoretical ideas and concepts that can be used in teaching modules such as “Civil Law” and “Private International Law,” as well as in conducting further research and preparing methodological recommendations. Practical significance:

The principles and conclusions presented in this study can be used to improve normative legal acts regulating the circulation of precious stones and metals, as well as in the interpretation of relevant legal norms in law enforcement practice, and in the legislative activities of state bodies.

Implementation of the research results:

the proposals concerning the simplification of the existing mechanisms of legal regulation applicable to entities participating in jewelry-related activities within the precious metals and precious stones market—particularly with regard to the easing of statutory licensing requirements and monitoring obligations—were incorporated into the substance of paragraph 10 of the draft Resolution of the Cabinet of Ministers of the Republic of Uzbekistan “On Amendments and Additions to Certain Decisions of the Government of the Republic of Uzbekistan in Connection with the Reduction of Mandatory Requirements in the Sphere of Entrepreneurship”, prepared by the Ministry of Justice of the Republic of Uzbekistan (Act No. 14-3/5-4234 dated 24 July, 2025). These proposals facilitated the normative streamlining of legal mechanisms regulating entrepreneurial activity in the production and importation of jewelry articles;

proposals directed towards the elimination or modification of obsolete legal concepts in the legislation on the circulation of precious metals and stones were utilized in shaping the content of Article 35 of the Law of the Republic of Uzbekistan No. LRU-1025 of 7 February 2025 “On Amendments and Additions to Certain Legislative Acts of the Republic of Uzbekistan in Connection with the Further Improvement of the Legal Foundations of Corporate Relations” (Act No. 14/3 of the Senate of the Oliy Majlis dated 25 July, 2025). The implementation of these proposals enabled the removal from the Law of the Republic of Uzbekistan “On Precious Metals and Precious Stones” of 23 August 2021 of organizational-legal forms, procedures, and doctrinal legal terms that have lost their regulatory significance;

proposals regarding the possibility for business entities engaged in the production, processing (re-processing), and use of precious metals and stones to

retain, manage and utilize, as their property or under their operational management, waste and scraps of precious metals and stones generated in the course of such activities, were reflected in Article 35 of the Law No. LRU-1025 of 7 February 2025 (Act No. 14/3 of the Senate of the Oliy Majlis dated 25 July, 2025). As a result, Article 24 of the Law of the Republic of Uzbekistan “On Precious Metals and Precious Stones” was supplemented with provisions establishing the right of legal entities that hold scraps and waste of precious metals and stones in their ownership or under operational management to independently reprocess and reuse such materials in their own production;

proposals aimed at expanding the circle of statutorily designated entities authorized to participate in hallmarking activities of jewelry and other items made of precious metals and stones, at broadening their corresponding powers, and at harmonizing legal terminology in the legislation on precious metals and stones with that employed in banking and financial legislation, were employed in the drafting of Article 10 of the Law of the Republic of Uzbekistan No. LRU-1058 of 17 April 2025 “On Amendments and Additions to Certain Legislative Acts of the Republic of Uzbekistan in Connection with the Improvement of the System of Financial Support for Business Entities” (Act No. 14/3 of the Senate of the Oliy Majlis dated 25 July, 2025). These proposals contributed to the inclusion, within the scope of hallmarking participants, of microfinance institutions, which are characterized by high organizational complexity and significant impact on financial inclusion.

Approbation of research results: The research results have been discussed at six scientific conferences, including two international and four national academic-practical forums.

Publications of research Results: A total of 14 scientific works have been published on the dissertation topic, including 6 academic articles (of which 3 are international) and 8 conference papers (of which 3 are international).

Structure and volume of the dissertation. The dissertation consists of an introduction, three chapters, a conclusion, and a list of references. The total length of the dissertation is 154 pages, excluding the list of references.

MAIN CONTENT OF THE DISSERTATION

The introduction of the dissertation outlines the relevance and necessity of the research topic, its alignment with the main priority areas of the development of science and technology in the republic, the level of study of the issue, the connection of the dissertation topic with the research plans of the higher educational institution where the dissertation was conducted, as well as its objectives and tasks, object and subject, methods, scientific novelty and practical significance of the research, their implementation, the approbation of the research results, their publication, and the volume and structure of the dissertation.

The first chapter of the dissertation, entitled "**General description of socio-legal relations related to precious stones and precious metals,**" is devoted to the concepts of precious stones and precious metals, the essence and content of socio-legal relations connected with them, their characteristics as objects of civil-law

regulation, as well as the development trends of the system of civil-legal norms regulating these relations and the essence and content of the main regulatory documents in current national legislation governing this field.

In today's globalized and resource-based economic development environment, legal relations involving precious metals and precious stones are becoming increasingly complex. In addressing issues such as sovereignty over these resources, ownership, usage, and disposition, the international community applies several fundamental doctrines such as the **“Regalian Right” (Jus Regale) or “Doctrine of State Ownership,” the “Sovereignty over Natural Resources” doctrine, the “Responsible Sourcing” doctrine, “State Pre-Emptive Rights,” and the “Traceability Doctrine.”** According to the **“Regalian Right” or “Doctrine of State Ownership”** the state holds full sovereignty over natural resources, including precious stones and metals within its territory, and exercises complete authority in managing, extracting, and disposing of these resources. The 1962 UN Resolution on “Permanent Sovereignty over Natural Resources” codified this principle into international law. Resource-rich countries such as Venezuela, Nigeria, and Indonesia apply these doctrines to defend their sovereign right to manage their own natural resources. In the European Union and United States legislation, these principles are widely applied to prevent the circulation of “conflict minerals.” Notably, Section 1502 of the U.S. “Dodd-Frank Act” of 2010 embodies this concept, requiring that entities involved in the trade of precious stones and metals verify the legal and ethical origins of these resources.

The author emphasizes the importance of applying and developing both the “Regalian Right” and the “Traceability Doctrine” in regulating civil-law relations involving precious stones and precious metals in Uzbekistan. Applying these doctrines could lead to the following outcomes in the industry:

1) the state would retain the right to manage resources as national wealth, ensuring their protection and rational use for the benefit of the people, thereby effectively regulating civil turnover involving these resources.

2) through state ownership and traceability doctrines, the government could prevent the illegal extraction of valuable minerals and the infiltration of contraband into legal markets by implementing principles that document the origin, movement, and ownership changes of products throughout the supply chain.

The United Nations General Assembly Resolutions 523 (VI) of January 12, 1952; 626 (VII) of December 21, 1952; and 1803 (XVII) of December 14, 1962, have recognized the **“right of peoples to freely use and exploit their natural wealth and resources”** as an integral part of their sovereignty. These internationally accepted principles of mining relations are reflected in the Constitution of the Republic of Uzbekistan. According to Article 68 of the Constitution of the Republic of Uzbekistan, land, subsoil resources, water, flora and fauna, and other natural resources are national wealth, their rational use is necessary, and they are under state protection. Land may be privately owned under conditions and procedures stipulated by law that ensure its rational use and protection as national wealth.

The study also considers various legal opinions regarding the legal concept of “precious stones” and their eligibility as objects of civil rights. The author refers to

the views of several scholars (I. Zokirov, H.R. Rakhmonqulov, O. Okyulov, I. Imomov, J. Yuldashev, S.I. Popova, D.O. Shniger, A.Y. Fedorov, R.M. Olimova, M.A. Zinkovskiy, S.A. Rebrovskiy, V.G. Gadiatov, K. Zweigert, K. Kantz, L. Cartier, H. Kotz, P. Bernstein, E. Bruton, M. Donoghue) as well as definitions from international trade organizations. Based on this analysis, the author formulates an original definition: ***“Precious stones are natural minerals classified as gemstones obtained either through natural extraction from subsoil resources or artificially/synthetically created in laboratory conditions as a result of human labor.”*** Other specific characteristics and economic value indicators of minerals classified as precious stones are defined by technical regulations governing relations in this field. Unique varieties of amber may also be equated with precious stones.

The author further asserts that the circulation of precious stones and metals reflects specific proprietary and organizational relations. In regulating these relations, unlike in other legal domains such as administrative, environmental, land, tax, or labor law, aspects such as extraction, buying and selling, pricing, ownership, supply, and storage are expressed as proprietary relations and should be considered objects of civil-law regulation.

Furthermore, the author identifies the period from 2017 to the present as a new stage in the development of the precious metals and stones circulation sector in Uzbekistan. During this time, modern strategies have been developed to modernize the regulation of this field and to implement the principle of rational use. Of particular significance is the Presidential Decree PD-4030 dated November 26, 2018, “On measures to create conditions for the extraction of precious metals using the prospector method,” which marked a turning point in liberalizing the sector. The author notes the role of this document in enabling individual entrepreneurs to begin business activities in this sector, particularly in the form of sole proprietorships.

The second chapter of the dissertation titled **“Circulation of precious stones and precious metals, contractual and legal regulation of related relations, as well as certain issues of processing precious stones”** discusses the specifics of civil-legal regulation of relations related to the processing of precious stones, contractual and legal regulation issues concerning relations related to jewelry and refining activities, as well as relations involving accounting, storage, use, and sale of precious metals and stones.

The issue of the formation of property rights over underground resources raises the pertinent question, “Is this truly considered an original property right?” Based on the conceptual rules of international law, such as the doctrines of “Sovereignty over Natural Resources” and “Responsible Sourcing,” the status of underground resources is reflected as follows:

1) the state's duty is to ensure the public interest during the use of underground resources, i.e., to increase the country’s economic prosperity while preventing damage to natural resources;

2) to fulfill this duty, the state retains the responsibility for granting permission and implementing control mechanisms for the use of underground resources.

The concepts of “*sustainability*” and “*circular economy*” in international trade imply ensuring environmental and economic sustainability in the refining of precious stones and metals. Uzbekistan, by applying these concepts as practiced by the US and some European Union countries, achieves effective results such as *ecological safety in processing and refining, cost reduction, natural resource conservation, and prevention of atmospheric pollution*.

The contract for the delivery of precious metals is considered a special type of sales contract. Under this agreement, precious metals are sold as a product, and the refining enterprise pays for the goods. All civil-law relations arising in this process are resolved on the basis of the precious metal sales contract. The Republic of Uzbekistan, represented by its authorized state bodies (the Central Bank of the Republic of Uzbekistan), holds the preemptive right to purchase precious metals and precious stones extracted from subsoil plots. In cases where the Central Bank of the Republic of Uzbekistan, for the purpose of replenishing its precious metal reserves, waives in writing its preemptive right to purchase refined precious metals, industrial mining entities and refining enterprises shall have the right to sell precious metals through exchanges or under direct contracts.

Precious metal ingots that cannot be classified as unique and their mineralogical collection samples may be valued and sold (used in production, as collateral, or other financial obligations) by entities engaged in industrial extraction and gold prospecting through civil law contracts according to the legislation. Additionally, the realization of precious metals and stones through organized exchange trading is a special type of civil-legal relations, regulated by special norms, unlike other civil contracts. For example, the “Navoi Mining and Metallurgical Complex” sells gold from its account as a dealer, and jewelry companies purchase gold for clients through brokers.

The dissertation emphasizes that refining activity is not only a technological process related to precious metals but also an important stage ensuring state control in the civil circulation of precious metals, because once refined, it becomes impossible to trace the metal’s source. Therefore, the legality of the refining stage is very important, as it prevents potential violations arising after precious metals become secondary products presented as goods on the market.

Thus, the dissertation stresses that applying the experience of developed countries (Germany, Canada, USA, China) and international structures and agreements such as the OECD (Organisation for economic co-operation and development), the Kimberley Process, and the Dodd-Frank Act in the production, ownership, use, and realization of precious stones with documented accounting following the principles of the “*Traceability Doctrine*” is beneficial for Uzbekistan.

Today, rapid development of modern digital technologies is causing fundamental changes in civil-legal relations worldwide. In particular, the introduction of “blockchain technology” and “smart contracts” in the trade of precious stones and metals plays a significant role in ensuring transparency, increasing legal certainty, strengthening security measures, and creating automated control opportunities.

Nowadays, the rapid development of modern digital technologies worldwide is bringing about fundamental changes in civil-law relations. In particular, the introduction of **blockchain technology** and **smart contracts** in the trade of precious stones and metals (as seen in the experience of *De Beers* and the *Everledger* platform) plays an important role in ensuring transparency, accuracy, and security measures in transactions, as well as creating opportunities for automated control.

The third chapter of the dissertation titled “*Liability for violation of legislation related to the circulation of precious metals and precious stones and improvement of legislation in the field*” discusses civil-legal liability for violations regulating social and legal relations concerning precious metals and stones, foreign countries’ experience, and issues of improving legislation governing relations in this field in Uzbekistan.

Participants in the precious metals and stones market have the right to independently determine contractual liability in concluding contracts based on the norms of the Civil Code, except in cases where such liability is mandatorily established by law. Furthermore, there exist special documents approved by state authorized bodies (Cabinet of Ministers, Central Bank, Ministry of Finance) regulating the form, content, and scope of application. Accordingly, *standard (typical) contracts* have been developed under these documents, where one party, the authorized state body, participates on behalf of the state in the circulation of precious stones and metals. Market participants may join these contracts only based on the terms specified therein, including *liability conditions*.

“In addition, in the third chapter, the researcher has sought to explain the regulation of issues of contractual and non-contractual liability through legislative provisions.”

In the practice of European countries such as the UK, Germany, Switzerland, Belgium, issues of civil liability are specific. Metals without the “Good Delivery” certificate approved by the London Bullion Market Association (LBMA) are not allowed into circulation; contracts regulate “Unallocated Metal Accounts” and “Allocated Accounts” with strict liability provisions, including penalties for late delivery of metals.

In recent years (since 2021) clear and precise labeling and certification requirements are being introduced to avoid confusing consumers when distinguishing between artificial and natural stones. Countries such as the USA, the European Union, Germany, and France have developed strict approaches, while the environmental impact and energy consumption of production remain pressing issues.

The absence of a unified international standard worldwide causes problems in the trade of artificial stones. Therefore, organizations such as GIA (Gemological Institute of America), “Gübelin”, “Gem Lab” are striving to develop international standards. Additionally, the concept of “conflict stones” is also taken into account in international trade because stones mined in war zones may be associated with human rights violations. In some countries, the term “semi-precious stones” includes unconventional minerals in legislation. Compared to international experience, Uzbekistan’s legal system has a certain foundation; however, additional normative-

legal mechanisms need to be developed to clearly define the status of artificial and organic stones, their classification, and legal regulation.

1. International organizations and Uzbekistan's integration steps: By March 2025, the U.S. Department of State officially announced Uzbekistan's accession as a member to the "Certification Scheme" related to Kimberley process. This is a significant achievement for Uzbekistan and a crucial step globally in combating blood diamonds, ensuring transparency and responsibility. The essence of the Kimberley Process is based on United Nations Security Council Resolution 1306, and in international law, this system is grounded on the principle of "conditional sovereignty." Moreover, in April 2024, the European Union and Uzbekistan signed a Memorandum of Strategic Cooperation on Critical Raw Materials (CRM), facilitating knowledge exchange, innovation implementation, and sustainable mineral extraction. Uzbekistan, rich in resources such as copper, molybdenum, and gold, is integrating these into international supply chains through such partnerships. In September 2024, the USA and Uzbekistan signed a memorandum of understanding on "diversifying global supply chains for mineral resources." The main objective is the transition to "clean energy" and ensuring environmental sustainability. In 2019, in cooperation with South Korea, AGMK established the first scientific center dedicated to the extraction of rare earth elements.

2. Legislation and international standards: Currently, the circulation of precious metals in Uzbekistan is primarily regulated through internal normative documents and closed state registries. However, taking into account international experience, this system should be improved as follows: incorporate standards of organizations such as LBMA (London Bullion Market Association), CIBJO (The World Jewellery Confederation), and AGTA (American Gem Trade Association) into national legislation. For example, by ensuring that refining plants like Navoi KMK produce according to LBMA's "Good Delivery" standards, Uzbek gold will gain recognition in international markets.

Membership in international precious metals institutions (such as the World Gold Council and IPMI) will enhance technological innovation, research projects, "best practice" experience, and relations with investors. Implement digital monitoring systems (blockchain, IoT, ERP) to track precious metals movement and reduce corruption risks. By adopting IFRS financial reporting standards, gold and other metals will be accurately reflected as assets in financial statements.

Currently, the national legislation's "state's privileged right to purchase precious metals" is actually interpreted as a "sales obligation." Therefore, it is advisable to revise this legal expression to "state's priority purchase right" or "mandatory offer to sell."

3. Bank deposits and accounts in precious metals: Based on the experiences of Russia, Kyrgyzstan, Tajikistan, and Indonesia, banking deposits and accounts based on precious metals are legally formalized. To implement this in Uzbekistan, it is proposed to add the following article to the Civil Code:

"Article 770¹. Bank deposit agreement in precious metals - The deposit subject is a certain type of precious metal (gold, silver). The bank returns to the client

the same type and weight of metal or pays the equivalent value in money. Insurance is not mandatory for such agreements, but clients are warned.”

It is also proposed to introduce a special provision on “bank accounts in precious metals.” This would facilitate the management of metal deposits in banks, attract investments, and simplify financial operations with resources.

4. Another important form of service provided by commercial banks is proposed to include:

- The sale and repurchase of gold bars issued by the Central Bank through the bank’s mobile application;
- The introduction of services for the sale and repurchase of precious metals in electronic (non-physical) form.

At present, although in Uzbekistan the practice of selling and repurchasing measured bullion through commercial banks is in place, there remains a necessity to further simplify this mechanism, digitalize the provision of such services, and introduce new banking products into practice

To this end, it is necessary to develop organizational and legal mechanisms for commercial banks to open, maintain, and close *custodial accounts* for precious metals as well as *unallocated (non-physical) accounts* for precious metals. Accordingly, based on the experience of the aforementioned foreign countries and international organizations studied within the scope of this research, it is proposed to develop a separate normative legal act establishing the legal foundations for opening and operating such custodial and unallocated accounts within the national legal framework. Furthermore, the implementation by banks of services enabling clients to buy and sell precious metals *in electronic (non-physical) form via mobile applications*, as well as to buy and sell measured gold bars issued by the Central Bank via mobile applications, will elevate the quality of banking services provided to both individuals and legal entities to an entirely new level.

CONCLUSION:

As a result of the research work on the topic “Certain issues of civil-law regulation of relations related to precious stones and precious metals,” the following scientific-theoretical, practical proposals and conclusions were developed:

I. Scientific-theoretical conclusions:

1. While civil law defines legal relations based on free agreement with a dispositive character, it also introduces special civil-law regimes in the field by applying internationally used concepts for civil-law regulation of strategic resources such as precious stones and precious metals.

Firstly, it was concluded that through the introduction of the concept of “Permanent Sovereignty over Natural Resources,” which recognizes the full and independent right of states to own, manage, and utilize underground mineral wealth located in their territories, and its logical continuation, the “Regulated Private Ownership Doctrine,” it is ensured that precious metals and stones can be owned by civil-law subjects other than the state.

Secondly, as defined in international conventions and soft-law documents related to the field, the principle of identifying the source, ownership chain, and legal origin of precious metals and stones is based on the “Traceability Doctrine,” and the “State Pre-Emptive Rights” are examined as the government’s right to purchase strategic resources first.

2. Based on the analysis conducted in the dissertation, a doctrinal authorial definition regarding the legal concept of “precious stones” was developed for amendments and additions to the current legislation: “Precious stones are natural minerals obtained naturally as a result of extraction of underground mineral wealth and classified as stones, including those artificially/synthetically created in laboratory conditions through human labor.” Other individual characteristics and economic value indicators of mineral wealth belonging to the precious stones category are regulated by technical regulations governing relations related to precious stones. Unique formations of coral can be equated to precious stones.

3. Within the scope of the dissertation, the organizational and legal bases for permitting the extraction and sale of precious stones and precious metals by legal entities using industrial methods and by individuals using gold prospecting methods, as well as the civil-law aspects of this activity, were examined. In particular, precious metals and stones obtained in accordance with the procedure established by the legislation of the Republic of Uzbekistan may be state property or owned by legal and natural persons. The property rights (ownership, use, disposal) of precious metals and stones by their owners are elaborated in detail according to the Civil Code and other special laws.

4. It is proposed to introduce the concept of “artificial/synthetic stones” into national legislation and regulate the related civil-law relations with separate special norms. The reason is that the disputed situation related to the circulation of artificially created precious stones in laboratory conditions arose in the territory of Uzbekistan, and providing the correct legal solution to it is important for national jurisdiction. Therefore, in our opinion, the legal regime applicable to diamonds produced in laboratory conditions as a result of human labor (delivery, appraisal, realization, liability, etc.) must necessarily differ from the legal requirements imposed on the trade of naturally originated diamonds.

5. The most serious drawback of the term “precious stones” is that it is the antonym (opposite meaning) of the term “semi-precious stones.” It is recommended to include the term “semi-precious stones” in the main legal concept section of the current Law. Because both precious stones and semi-precious stones differ in their directions of circulation, it is advisable to describe this concept at the level of the Law.

6. The true value of minerals may lie not only in their price but also in their scientific, medical, or collectible value. If minerals included in the list of precious stones have unique, distinctive features based on their rarity, appearance, medical properties, scientific importance, or similar attributes and are not used in production or trade, then the discussion concerns not precious stones but the collectible, medical, or scientific significance of the object. Therefore, it is proposed to separately recognize the categories of precious stones and stones intended for other purposes in the legislation. Within the dissertation, it is proposed to classify

precious stones regulated at the legislative level according to “levels-categories” (hierarchy).

7. The priority goal of civil law is to ensure that relations and contracts between people, especially owners, are carried out within the framework of fairness criteria for the parties. Accordingly, it is proposed to introduce the concept of “currency transaction” or “transaction with precious metals” into the legislation. Because normative legal acts only have the term “operations with precious metals,” which is much broader than the concept of “transaction.”

8. Above paragraphs discussed the “preferential purchase right.” The analysis shows that the legal meaning of “preferential purchase” used in the circulation of precious stones and metals is not equal to the civil law contractual “preferential purchase” right but refers to the obligation of the initial owner of the precious stones and metals to offer to sell these wealths to the state (in fact, this is not a “purchase right” but a “sale obligation”). Therefore, it is proposed to express the legal terminology used in the Law “On precious metals and precious stones” in two legally distinct forms and content, clearly separated.

9. Ownership rights over precious stones and metals may arise initially through extraction, treasure finding, discovery, processing (e.g., stone polishing or enrichment, smelting from ore, etc.). Ownership rights may also arise on the basis of transfer to another person, nationalization, requisition, confiscation, purchase of property not belonging to certain persons according to the law, compulsory purchase of unclaimed unprocessed precious stones and metal forms.

10. The civil-law nature of contracts for purchasing precious metals between refining companies as legal entities and gold prospecting individuals was examined, particularly regarding the parties’ rights and obligations and civil liability issues. The circulation of precious metals in the primary product state is regulated by special legislative norms based on the doctrine of “Regulated Private Ownership.” Therefore, related relations occur both within traditional contracts and through the intervention of special civil law norms.

11. Unlike the initial relations in the circulation of precious stones and metals, relations in jewelry and craft sectors include civil-law relations regarding precious stones and metals transformed into secondary products. It was noted that in the jewelry industry, ownership rights to precious metals and stones by jewelers are exercised through two civil-law relations: organizing exchange trades and direct contracts between parties without intermediaries or third parties.

II. Proposals and recommendations for improving legislation and law enforcement based on research results:

12. In international practice, “smart contracts” often serve to create automated legal relations in delivery, deposit storage, escrow, and insurance processes based on blockchain data chains in the trade of precious stones and metals. Especially where there are many participants in the supply chain and their geographic locations vary, smart contracts ensure timely and interference-free execution of relations. It is proposed to introduce amendments and additions to Uzbekistan’s Civil Code norms, particularly to the Civil Code and the Law “On Precious Stones and Precious Metals,” to regulate the legal basis of blockchain and

smart contract formalization, following examples of Georgia, Moldova, Estonia, Switzerland, the USA, Singapore, and others.

13. Taking positive aspects of legislation regulating precious metal-based banking services from the USA, Germany, Switzerland, the Russian Federation, Tajikistan, Kyrgyzstan, Indonesia, it is proposed to introduce amendments to the Civil Code of Uzbekistan in the form of “Bank Deposit Contract in Precious Metals” (Article 7701 of the Civil Code) and “Bank Account Contract in Precious Metals” (Article 7891 of the Civil Code).

14. There exists a necessity to develop the organizational and legal mechanisms governing the opening, administration, and closure of custodial accounts for precious metals, as well as unallocated (non-physical) accounts for precious metals by commercial banks. In this regard, it is proposed that, within the framework of the present research, and based on the study of international best practices and the experience of the aforementioned countries and international organizations, the legal foundations for the operation of such accounts be formalized through the development of a dedicated normative legal act, duly integrated into the national legal framework.

15. It is proposed to revise the legal concept of “precious stones” described in Article 3 of the Law of the Republic of Uzbekistan No. LRU-987 “On subsoil” dated October 31, 2024, to the following content: “precious stones are natural minerals obtained naturally as a result of extraction of underground mineral wealth and classified as stones, including those artificially/synthetically created in laboratory conditions through human labor.”

16. Uzbekistan is currently a full member of the Kimberley Process’s most important and successful branches, the certification system (since April 2024). Therefore, it is advisable for Uzbekistan to continue aligning the legal regulation of precious stones and metals circulation with international standards by joining international organizations such as “The world jewellery confederation” (*CIBJO*), *AGTA* (American Gem Trade Association), “London Bullion Market Association” (*LBMA*). In particular, adopting *LBMA* standards, especially the “*Good Delivery*” criteria, and ensuring that Uzbek refineries and mining plants (e.g., Navoi KMK JSC, Almalyk KMK JSC) comply with these requirements. This will enable Uzbek gold to become a recognized brand in global markets.

17. In cases related to the circulation of “conflict stones” (conflict minerals), studied through the example of the disputed situation in Zimbabwe, where precious stones and metals mined in war zones or environmentally and socially harmful ways are strictly prohibited in international markets, it is proposed to include in the Law the requirement for information not only on the name and quality of imported precious materials but also on the region of origin, especially regulating the legal regime for import of conflict stones into Uzbekistan.

18. It is proposed to apply terminology and classification standards developed by “The world jewellery confederation” (*CIBJO*), one of the international organizations, concerning jewelry stones, organic substances, and artificial products, to national legislation. Because about 150 trade names of jewelry minerals,

organogenic and artificial precious materials developed by this Confederation are used in world trade.

19. The official manual of the AGTA organization identifies over 40 precious stone names and is known for the highest ethical standards: full disclosure of information about stone characteristics and quality guarantees. The standards and codes developed by this Association are applied worldwide and play an important role in ensuring trust and transparency in the precious stone industry. Therefore, it is proposed to apply the modern experience of this organization in national regulatory and technical rules used in the circulation of precious stones and metals.

20. Harmonization of legislation with “Environmental and Sustainable Development Requirements” (ESG) necessitates the formulation of a policy framework for the extraction of gold from recycled electronic waste (urban mining). The implementation of such reforms shall serve to enhance environmental protection and promote social responsibility in accordance with ESG principles.

III. Recommendations to improve the effectiveness of educational methodical work using research results:

21. To ensure correct and uniform practical application of the norms of the Law of the Republic of Uzbekistan No.710 dated August 23, 2021 “On Precious Metals and Precious Stones” by individuals and legal entities, it is recommended to prepare a scientific-practical commentary on this legal act.

22. To improve the efficiency of resolving disputes arising in civil circulation of precious metals and stones in courts, it is recommended to draft a Plenum resolution of the Supreme Court of Uzbekistan “On certain issues of applying legal acts related to civil circulation of precious stones and precious metals.

23. To enhance the effectiveness of scientific and educational-methodical study of the civil-law regulation of precious metals and stones circulation, it is advisable to include the topic “*Civil-law regulation of natural resources circulation*” in the curricula of legal education institutions in courses such as “Civil Law,” “Contract Law,” and “Obligation Law” and to prepare textbooks on this subject.

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

**ТАШКЕНТСКИЙ ГОСУДАРСТВЕННЫЙ ЮРИДИЧЕСКИЙ
УНИВЕРСИТЕТ**

СЕТТИЕВА АДОЛАТ ФАХРИДДИН КИЗИ

**НЕКОТОРЫЕ ВОПРОСЫ ГРАЖДАНСКО-ПРАВОВОГО
РЕГУЛИРОВАНИЯ ОТНОШЕНИЙ, СВЯЗАННЫХ С
ДРАГОЦЕННЫМИ КАМНЯМИ И ДРАГОЦЕННЫМИ МЕТАЛЛАМИ**

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АВТОРЕФЕРАТ
диссертации доктора философии (PhD) по юридическим наукам

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Тема диссертации доктора философии (Doctor of Philosophy) зарегистрирована Высшей аттестационной комиссией при Министерстве высшего образования, науки и инноваций Республики Узбекистан за № B2025.2.PhD/Yu1895.

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ВВЕДЕНИЕ (аннотация диссертации доктора философии (PhD))

Целью данной работы является исследование специфических особенностей гражданско-правового регулирования первичных отношений, связанных с оборотом драгоценных камней и драгоценных металлов, и разработка предложений и рекомендаций, направленных на совершенствование законодательства в данном направлении.

В качестве **объекта исследования** взяты гражданско-правовые отношения, связанные с драгоценными камнями и драгоценными металлами.

Научная новизна исследования состоит в следующем:

обоснованы предложения по упрощению действующих механизмов правового регулирования, применяемых в отношении субъектов, участвующих в ювелирной деятельности на рынке драгоценных металлов и драгоценных камней, в частности, по облегчению установленных в законодательстве лицензионных условий и требований по проведению мониторинга в отношении них;

обоснованы предложения по отмене некоторых утративших свое значение организационно-правовых форм, процедур, правовых понятий в законодательстве, непосредственно относящихся к процессу оборота драгоценных металлов и драгоценных камней в гражданско-правовых отношениях;

обоснованы предложения о том, что в процессе оборота драгоценных камней и драгоценных металлов в ситуации, когда в результате производства, переработки, использования драгоценных камней и металлов у субъектов предпринимательства образуются отходы и осколки драгоценных металлов и камней, указанные отходы и осколки могут находиться в собственности и оперативном управлении данных субъектов предпринимательства;

обоснованно представлены предложения по расширению круга установленных законодательством субъектов, участвующих в деятельности по клеймению ювелирных и других изделий, изготовленных из драгоценных металлов и драгоценных камней, а также объема принадлежащих им полномочий, кроме того, по приведению правовых понятий в законодательстве о драгоценных камнях и драгоценных металлах в соответствие с правовыми понятиями, выраженными в банковском и финансовом законодательстве.

Внедрение результатов исследования:

предложения по упрощению действующих механизмов правового регулирования, применяемых в отношении субъектов, участвующих в ювелирной деятельности на рынке драгоценных металлов и драгоценных камней, в частности, по облегчению установленных в законодательстве лицензионных условий и требований по проведению мониторинга в отношении них, использованы при формировании содержания пункта 10 проекта Постановления Кабинета Министров Республики Узбекистан «О внесении изменений и дополнений в некоторые Постановления Правительства Республики Узбекистан в связи с сокращением обязательных

требований в сфере предпринимательства», разработанного Министерством юстиции Республики Узбекистан (акт Министерства юстиции Республики Узбекистан от 24 июля 2025 года № 14-3/5-4234). Данное предложение послужило дальнейшему упрощению существующих механизмов правового регулирования деятельности предпринимателей, занимающихся такими видами деятельности, как производство и импорт ювелирных изделий;

предложения по отмене и изменению некоторых утративших свое значение правовых понятий в законодательстве об обороте драгоценных металлов и драгоценных камней использованы при формировании содержания статьи 35 Закона Республики Узбекистан от 7 февраля 2025 года № ЗРУ-1025 «О внесении изменений и дополнений в некоторые законодательные акты Республики Узбекистан в связи с дальнейшим совершенствованием правовых основ корпоративных отношений» (акт Сената Олий Мажлиса Республики Узбекистан от 25 июля 2025 года № 14/3). Данное предложение послужило исключению из Закона Республики Узбекистан от 23 августа 2021 года «О драгоценных металлах и драгоценных камнях» утративших в настоящее время свое значение и необходимость организационно-правовых форм, процедур, правовых понятий;

предложение о том, что при образовании у субъектов предпринимательства отходов и осколков драгоценных металлов и камней в результате производства, переработки, использования драгоценных камней и драгоценных металлов они могут находиться в собственности и оперативном управлении субъектов предпринимательства, использоваться ими, использовано при формировании содержания статьи 35 Закона Республики Узбекистан от 7 февраля 2025 года № ЗРУ-1025 «О внесении изменений и дополнений в некоторые законодательные акты Республики Узбекистан в связи с дальнейшим совершенствованием правовых основ корпоративных отношений» (акт Сената Олий Мажлиса Республики Узбекистан от 25 июля 2025 года № 14/3). Данное предложение послужило внесению в содержание статьи 24 Закона Республики Узбекистан «О драгоценных металлах и драгоценных камнях» норм о том, что юридические лица, имеющие в своей собственности или оперативном управлении осколки, отходы драгоценных металлов, а также отходы драгоценных камней, могут самостоятельно перерабатывать и обрабатывать их для повторного использования в своем производстве;

предложения по дальнейшему расширению круга установленных законодательством субъектов, участвующих в деятельности по клеймению ювелирных и других изделий, изготовленных из драгоценных металлов и драгоценных камней, а также объема принадлежащих им полномочий, кроме того, по приведению правовых понятий в законодательстве о драгоценных камнях и драгоценных металлах в соответствие с существующими правовыми понятиями, выраженными в банковском и финансовом законодательстве, использованы при формировании статьи 10 Закона Республики Узбекистан от 17 апреля 2025 года № ЗРУ-1058 «О внесении изменений и дополнений в некоторые законодательные акты Республики Узбекистан в связи с

совершенствованием системы финансовой поддержки субъектов предпринимательства» (справка Сената Олий Мажлиса Республики Узбекистан от 25 июля 2025 года № 14/3). Принятие данных предложений послужило включению микрофинансовых организаций, имеющих высокую организационную сложность и финансово-инклюзивное воздействие, в круг субъектов, участвующих в деятельности по клеймению ювелирной продукции.

Структура и объем диссертации. Диссертация состоит из введения, трех глав, заключения, списка использованной литературы. Объем диссертации составляет 154 страницу (исключая список использованной литературы).

E'LON QILINGAN ISHLAR RO'YXATI
СПИСОК ОПУБЛИКОВАННЫХ РАБОТ
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2. Settiyeva A.F. Qimmatbaho metallar va qimmatbaho toshlarning noqonuniy aylanmasiga oldini olishga qaratilgan xalqaro AML/CFT tartibotlarni qo'llash hamda bu yo'nalishda xorijiy mamlakatlar tajribasi// In Science. Society and innovations, Special Issue –06(2025) / ISSN 2181-1415, –B. 455-461;

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7. Settieva A.F. The trade of synthetic gemstones in the global market: legal and economic perspectives. // Innovative research in modern education (Hosted from Toronto, Canada) <https://aidlix.org/index.php/ca/article/view/1633> 2023-yil iyul soni №7. –B. 13-16

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