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

**TOSHKENT DAVLAT YURIDIK UNIVERSITETI**

**ISMANJANOV AKBAR ANVARJANOVICH**

# AXBOROTNING FUQAROVIY-HUQUQIY MAQOMI

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

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

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## KIRISH (doktorlik (DSc) dissertatsiyasi annotatsiyasi)

**Dissertatsiya mavzuning dolzarbligi va zarurati.** Dunyoda, savdoni dematerializatsiyasi davrida, axborot munosabatlarining tegishli tomonlari uchun muhim aktivga, va shuningdek tijorat bitimlari predmetiga aylanib bormoqda. Xalqaro maydonda axborotning elektron almashinuvi, uning huquqiy maqomini qayta ko‘rib chiqishga va boshqa axborot obyektlariga nisbatan munosabatini aniqlab olishni talab qilmoqda. Mutlaq huquq himoyasini taqdim etuvchi intellektual mulk obyektlarining huquqiy rejimlari va tijorat siri, garchi axborotlarni aksariyatini qamrab olgan bo‘lsa-da, ularni tartibga solish doirasidan muayyan axborotni tashqarida qoldiradi, ya’ni mualliflik huquqida shakl emas mazmunga qaratilgan, yoki tijorat sirlida nisbiy maxfiylikka ega bo‘lgan axborotni. Barcha obyektlarga egarlik qilish huquqini kafolat etishga qaratilgan, universal mulk huquqi instituti, axborotning dinamik tabiati bilan, mulk huquqiga xos bo‘lgan mutlaqlik bilan nomuvofiqlikka duch kelmoqda. Ta’kidlab o‘tgan muammolar, huquq va amaliyot asosida, umumiy fuqarolik huquqi axborotini huquqiy maqomini aniqlashga va uning mezonlarini belgilashni talab qiladi.

Bu muammoga oid dunyodagi huquqiy rivojga e’tibor qaratsak, axborotga vakolatlarini kengaytirish bilan mulk huquqlari o‘zgartirishi va himoya talablarini yengillashtirish bilan bog‘likdir. O‘z o‘rnida, bu jarayon kvazi-mutlaq huquqlarini va axborotning fuqarolik muomalasini ta’minlash uchun, ochiq axborotni himoya qilishga mo‘ljallangan kontekstga qaratilgan rejimlarini paydo bo‘lishiga olib keldi. Mualliflik huquqi shakl bilan cheklanganligi sababli, axborotni mazmunini himoya qilishga qaratilgan “axborot kontenti” kategoriyasi paydo bo‘ldi. Shu bilan birga, raqamlashgan axborotni fuqaroviy-huquqiy almashinuvi, shu savollar bilan bir qatorda, axborotning yangi turlari, ya’ni “big data”ni huquqiy maqomi, “kompyuter bilan ishlab chiqarilgan obyektlar”ni huquqiy tartibga solishni, genom ma’lumotiga nisbatan huquqiy talablar, ochiq ma’lumotlarni rivojlantirish, onlain tarmoqlarini vositachilik javobgarligi aniqlashtirishni, brauzingda nusxalashni huquqiy oqibatlarini belgilab olishni, “tugab bitish” doktrinasini elektron axborotga nisbatan cheklash masalalarini hal qilish, va boshqa tegishli huquqiy masalalarni yechishni talab qiladi.

Tadqiqotda ko‘tarilgan masalalar muhim ilmiy va amaliy ahamiyatga ega. Fuqarolik huquqining obyekti sifatida axborot masalalari o‘tgan asrning o‘rtalaridan boshlab bugungi kunga qadar ham ilmiy muhokamalar markazida bo‘lib kelmoqda.[1] Huquqiy an’ana o‘lchamida axborotning fuqarolik huquqiy almashinuvi mavzusi Rossiya Federatsiyasining fuqarolik kodeksi misolida axborotni fuqarolik huquqining obyekti sifatida rasmiy e’tirof etilishida prinsipial oldiga siljishlikka ega bo‘ldi. Shu bilan birga, mavzu tizimli yondashuvni va mavjud huquqiy kategoriyalarning bir qismi sifatida axborotning huquqiy maqomi uchun umumiy asosini ishlab chiqishni va uning bo‘shliqlarini to‘liqlashni, shuningdek fuqarolik axborot almashinuvining ta’minlash mexanizmlarini belgilashni talab etadi. Nazariy-huquqiy jihatdan axborotning fuqarolik huquqi va mulk huquqi obyektlari qatori e’tirof etilish tashabbusi MDH davlatlari sivilistlari tomonidan qo‘llab-

[1] Marc Uri Porat, The Information Economy, University of Michigan Press (1977) – 556.

quvvatlandi, biroq qarshi baxshni inobatga olgan holda, uning doktrinal asosini ishlab chiqishni talab qiladi.

Ilg‘or raqamli iqtisodiyot mamlakat rivojlanishining asosiy ko‘rsatkichlaridan biri bo‘lib hisoblanadi, va “Raqamli O‘zbekiston 2030” strategiyasida belgilanganday O‘zbekiston Respublikasida dasturiy ustuvorliklardan biri etib belgilangan.[2] Axborot qonunchiligining doimo rivojlanib borayotgani, axborot savdosiga e’tibor qaratganligini tasdiqlaydi. O‘zbekiston Respublikasida elektron tijoratni rivojlantirish konsepsiyasiga muvofiq,[3] O‘zbekiston Respublikasida “Axborotlashtirish to‘g‘risida”gi,[4] O‘zbekiston Respublikasi “Elektron hujjat aylanishi to‘g‘risida”gi,[5] O‘zbekiston Respublikasi “Elektron tijorat to‘g‘risida”gi,[6] O‘zbekiston Respublikasi “Tijorat siri to‘g‘risida”gi[7] qonunlar va boshqa normativ hujjatlarda aks ettirilgan axborotlashtirish qonunchilik bazasi takomillashtirilmoqda. 2019-yil 17-iyulda O‘zbekiston Respublikasi intellektual mulkning ayrim turlarini kengaytirilgan himoya qilishni ta’minlovchi Butunjahon intellektual mulk tashkilotining (BIMT) 1996-yil 29-oktyabrdagi BIMTning Mualliflik huquqi bo‘yicha shartnomasi, va 1996-yil 20-dekabrdagi BIMT ijrochilar va fonogrammalar shartnomasi kabi ikkita yangi konvensiyalarga a’zo bo‘ldi. Axborot kodeksi ishlab chiqish bo‘yicha ishlar yo‘lga qo‘yilgan. Ushbu islohotlarga mos ravishda, axborotning fuqarolik huquqining obyekti va mulk huquqi obyekti sifatida doktrinal masalalariga konseptual aniqlik va yondashuvlardagi birdamligini talab etilmoqda.

**Tadqiqotning respublika fan va texnologiyalari rivojlanishining asosiy ustuvor yo‘nalishlariga bog‘liqligi.** Tadqiqot mavzusi 2022 — 2026-yillarga mo‘ljallangan “Yangi O‘zbekistonning taraqqiyot strategiyasi to‘g‘risida” O‘zbekiston Respublikasi Prezidentining 28-yanvar 2022 yildagi UP-60-sonli Farmoni,[8] “Fuqarolarning axborot olish va tarqatish erkinligi borasidagi huquqlarini yanada mustahkamlash”ga qaratilgan 89-chi, va ustuvor yo‘nalishlar, maqsadlar va vazifalar qatori 324-chi “axborot sohasini tartibga soluvchi yagona tizimlashtirilgan normativ-huquqiy hujjat loyihasini ishlab chiqish” maqsadlariga to‘g‘ri keladi. “Fuqarolarning axborot olish va tarqatish erkinligi borasidagi huquqlarini yanada mustahkamlash”ga qaratilgan 89-chi, va ustuvor yo‘nalishlar, maqsadlar va vazifalar qatori 324-chi “axborot sohasini tartibga soluvchi yagona tizimlashtirilgan normativ-huquqiy hujjat loyihasini ishlab chiqish” maqsadlariga to‘g‘ri keladi. Va uni amalga oshirish mexanizmlari qatori 1. Zamon talablari asosida axborot sohasidagi qonunchilikni takomillashtirish, va 2. Axborot sohasini tartibga solishga

[2] Raqamli O‘zbekiston – 2030 strategiyasi, O‘zbekiston Respublikasi Prezidentining 2020-yil, 5-oktyabrdagi PF-6079-son Farmoniga ilova.

[3] 2016 — 2018-yillar davrida O‘zbekiston Respublikasida elektron tijoratni rivojlantirish kontsepsiyasini tasdiqlash to‘g‘risida // O‘zbekiston Respublikasi qonun hujjatlari to‘plami // 2015-y., 49-son, 612-modda.

[4] O‘zbekiston Respublikasining 11.12.2003-yildagi 560-II-sonli “Axborotlashtirish to‘g‘risida"gi” qonuni //

[5] O’zbekiston Respublikasining “Elektron hujjat aylanishi tug‘risida”gi qonini, 5 moddasi. O’zbekiston Respublikasi qonun hujjatlari to’plami, 2004-y., 20-son, 230-modda.

[6] O’zbekiston Respublikasining “Elektron tijorat to’g’risida”gi 2004-yil 29-aprel 613-II-sonli Qonuni // O’zbekiston Respublikasi qonun hujjatlari to’plami, 2014. y. 37-son, 463-modda.

[7] O’zbekiston Respublikasining 2014-yil 11-sentyabrdagi “Tijorat sirlari to‘g‘risida”gi qonuni / / O’zbekiston Respublikasi qonun hujjatlari to’plami, 2014. y. 37-son, 463-modda.

[8] O’zbekiston Respublikasi Prezidentining 2022-yil 28-yanvardagi PF-60-son “2022-2026-yillarga mo’ljallangan yangi O’zbekistonning taraqqiyot strategiyasi to‘g‘risida”gi Farmoni // QMMB №06/22/60/0082

qaratilgan, mavjud qonunlarni O‘zbekiston Respublikasi axborot kodeksi shaklida unifikatsiya qilish qo‘yilgan maqsadiga to‘g‘ri keladi.

Shuningdek, dissertatsiya ishi, O‘zbekiston Respublikasi Prezidentining “O‘zbekiston Respublikasining fuqarolik qonunchiligini takomillashtirish chora-tadbirlari to‘g‘risida”gi Farmonidagi “fuqarolik qonunchiligi normalarini tizimlashtirish va unifikatsiya qilish, ularning eng namunali xorijiy amaliyotlar bilan uyg‘unligini ta’minlash, shuningdek, ushbu sohada ilg‘or xalqaro standartlarni implementatsiya qilish” bo‘yicha belgilangan maqsadlarga javob beradi.[9]

Dissertatsiya ishi hamda O‘zbekiston Respublikasining fuqarolik qonunchiligini takomillashtirish Konsepsiyasida II. “Asosiy fuqaroviy huquqiy institutlarni takomillashtirish” yo‘nalishida, “mulkdor huquqlarini kengaytirish yo‘li bilan ashyoviy huquqlar institutini kuchaytirish” to‘g‘risidagi 7-bandiga to‘g‘ri keladi va, “zamonaviy sharoitlarda talab yuqori bo‘lgan fuqarolik-huquqiy munosabatlarni tartibga solishning innovatsion shakllari va tamoyillarini joriy etish”, xususan, shaxsi ko‘rsatilmagan ma’lumotlarning sezilarli massivlarini (“big data”) yig‘ish va qayta ishlashni huquqiy tartibga solish, elektron tijoratdan foydalanish, elektron maydonchalar orqali xaridlarni amalga oshirish bo‘yicha imkoniyatlarni kengaytirish haqidagi IV yo‘nalishiga to‘g‘ri keladi.[10] Axborotni himoya qilishning huquqiy asoslarini mustahkamlash va axborotlarning fuqarolik muomalasiga oid huquqiy asosini yaratish, O‘zbekistonda axborot sohasining rivojlanishini sifat jihatidan yangi bosqichga olib chiqishga yordam beradi.

**Dissertatsiyaning mavzusi bo‘yicha xorijiy ilmiy tadqiqotlar sharhi.** Dissertatsiyada axborotni huquqiy tartibga solish bo‘yicha eng ilg‘or xalqaro tadqiqotlar qo‘llanildi, shuningdek qo‘yidagi tadqiqotchilar muallifligida: Branskomp A., Gasser U., Drui D., Edvards L., Vaelde Sh., Vunderligx J., Lipton J., Porat M., Rodjers K. Lessig L., Kingston V., Rid K., Semuelson P., Zegx G., Myurrey A., Lloyd Ya., Barlou D.P., Meyer T., Rouland D., Salsburri S., Maziotti D. kabi va boshqalar.[11] Axborotning fuqarolik — huquqiy maqomi bo‘yicha xalqaro universitetlardagi yetakchi ilmiy-tadqiqot markazlarida tadqiqotlar kuzatilib tadqiq etildi, jumladan Stenford huquq fakultetidagi internet va jamiyat markazi, Garvard universitetida Berkman Klein Internet va jamiyat markazi, Oksford internet instituti, Kembrij universiteti qoshidagi Intellektual mulk va axborot huquqi markazi, London Qirolicha Meri universiteti qoshidagi Media va telekommunikatsiyalar huquq

[9] O’zbekiston Respublikasining Prezidentining “Fuqarolik qonunchiligi takomillashtirish chora-tadbirlar tug‘risida”gi 2019-yil 5-apreldagi 5464-son Farmoyishi // QHMMB, 2019-y., 2891-son, 1-modda.

[10] O‘zbekiston Respublikasi Prezidentining 2019-yil 5-apreldagi F-5464-sonli "O‘zbekiston Respublikasining fuqarolik qonunchiligini takomillashtirish chora-tadbirlari to‘g‘risida" farmoyishiga 1-ilova "O‘zbekiston Respublikasining fuqarolik qonunchiligini takomillashtirish konsepsiyasi".

[11] Jacqueline D. Lipton, Information Property: Rights and Responsibilities, Florida Law Review, Vol. 56, No. 1, pp. 135-194; Anne W. Branscomp. Who owns the information? BasicBooks. NY, 1994. p. 183; Lawrence Lessig. The future of ideas. Vintage books. NY, 2006. p. 355; Gene Wunderlich, Annuals of the American Academy of Political and Social Science, Property Rights and Information, Vol 412, Issue 1, 1974 p., William Kingston, Beyond Intellectual Property: Matching Information Protection to Innovation, Edward Elgar, 2010 p.256; Herbert Zech, Information as Property, JIPITEC 6 (3) 2015, 192; Pamela Samuelson, Information as Property: Do Ruckelshaus and Carpenter Signal a Changing Direction in Intellectual Property Law?, 38 Cath. U. L. Rev. 365 (1989) ; Andrew Murray, Information Technology Law (OUP 2013) p.53-83, Ian J. Lloyd. Information Technology Law, OUP 2011; Lilian Edwards and Charlotte Waelde, Law and the Internet, HART Publishing 2009, Chris Reed, Internet Law, Text and Materials, CUP, 2004; Kevin M Rogers, The Internet and the Law, 2011.

instituti, KU Leuven universitetidagi IT va IP huquqi markazi (CITIP) va boshqalarda.

**Muammoning o‘rganganlik darajasi.** Axborot fuqarolik huquqi obyekti sifatida bir guruh MDH mamlakatlar tadqiqotchilari orasida ilmiy izlanishlar mavzusi bo‘lgan. Bunday tadqiqotchilar qatorida Teretshenko L.K., Gorodov O.A., Gayurov Sh.K., Rassolov M.M., Sitnikov A.L., Tumanova L.V., Dozortsev V.A., Nasonova E.N., Volkov Yu.V., Kovaleva N.N., Kopilov V.A., Kolines A. Vengerov A.B., Shestobitov, A.E., Snitnikov, A.A., Sidorova, O.Yu., Gaynullina, Z.F., Bogdanov, V.M., Tsherbak, N.V va boshqalar.[12] Milliy yurisprudentsiyada, fuqarolik huquqida axborotni o‘rnini O‘zbekistonda Okyulov O., Toshev B., Gulyamov S.S., Rustambekov R.I., Xodjaev B.K., Imomov N.F., Mexmonov K.M., Xolmuminov J.T., Narmatov N.S., Kuldoshev N.A., Xusanov O.T., Baratov N.X., Ruziev R.J., Choriev M.Sh., Nasriev I., Nugmanov N.A., Safoeva S.M., Raimova N.D., Agzamova M.B. kabi yetakchi sivilistlar tomonidan tadqiq etilgan.[13] Milliy tadqiqodchilarni axborotning huquqiy maqomiga oid savollari axborotning huquqiy tabiati va xususiyatlarini aniqlashida hal qiluvchi ahamiyatga ega bo‘ldi. Xalqaro tadqiqotchilarni fikir-mulohazalari axborotni tartibga solish huquqiy modellari va yondashuvlarini aniqlashda muhim rol o‘ynadi.

**Dissertatsiya tadqiqotining dissertatsiya bajarilayotgan oliy ta’lim muassasasining ilmiy-tadqiqot ishlari rejalari bilan bog’liqligi.** Dissertatsiya mavzusi Toshkent davlat yuridik universitetining tadqiqot rejasiga kiritilgan bo‘lib, "O‘zbekiston Respublikasi fuqarolik kodeksini takomillashtirish va tatbiq qilish

[12] Терещenko L.K. Informatsiya kak obyekt grajdanskix prav // Avtorskoye pravo XXI vek: Sbornik nauchnyh statey. M.: MFGS, RAP, 2010. S. 35-46 – 0,6 p.l., Gorodov O.A. Informatsiya kak obyekt grajdanskix prav. // Pravovedeniye. – 2001. – № 5., Gayurov Sh.K. Znacheniye prinsipa otkrытosti, dostupnosti informatsii i svoboda yee obmena v grajdanskom obщestve// Izvestiya AN RT. Seriya: filosofiya i pravo. Dushanbe, 2009. №1.- S. 173, Rassolov M.M. Informatsionnoye pravo: Uch. pos. M., 1999. s.47. Sitnikov A.L., Tumanova L.V. Obespecheniye i zashita prav na informatsiyu. M., 2001. s.118., Dozorsev V. A. Ponyatiye isklyuchitelnogo prava// Problemы sovremennogo grajdanskogo prava: Sb. statey. M., 2000. S. 303, 313., Nasonova Ye.N. Informatsiya kak obyekt grajdanskogo prava: Dis.kand.yurid.nauk. M., 2002. S. 13.23 s., Volkov Yu.V. Subyekty telekommunikatsionnogo prava. Avtoref. soisk.st. k.yu.n. UGYUA. Yekaterinburg. 2007 g. — 25 s., Kovaleva N.N. Informatsionnoye pravo Rossii: ucheb. posobiye. — M., 2007.-s.39, Kopylov, V.A. O modeli grajdanskogo oborota informatsii// Jurnal Rossiyskogo prava №9 1999., Kodines A., Informatsiya kak obyekt grajdanskix prav: Konsepsiya, metodologiya, pravovaya priroda. // Pravo Ukrainy. 2015, №1, c. 107-115., Vengerov A.B. Pravo na informatsiyu v usloviyax avtomatizatsii upravleniya. – M., 1978., Shestobitov, A.Ye. Grajdansko-pravovoye regulirovaniye obyazatelstv po peredache informatsii: avtoref. diss. . kand. yurid. nauk. M., 1985., Snytnikov, A.A. Informatsiya kak obyekt grajdanskix pravootnosheniy: avtoref. diss. kand. yurid. nauk. SPb. 2000. -26s., Sidorova, O.Yu. Informatsiya kak obyekt absolyutnyh i otnositelnyx grajdanskih pravootnosheniy: avtoref. dis. . kand. yurid. nauk. Volgograd, 2003. — 30 s., Gaynullina, Z.F. Pravovoye obespecheniye prav i zakonnyh interesov obladateley neobshedostupnoy informatsii (kommercheskaya tayna, nou-xau): dis. kand. yurid. nauk. M., 1998. — 165s., Bogdanov, V.M. Informatsiya kak obyekt grajdanskix prav: diss. . kand. yurid. nauk. Yekaterinburg, 2005. — 187 s., Sherbak, N.V. Informatsiya kak obyekt grajdansko-pravovogo regulirovaniya//Zakonodatelstvo (Pravo dlya biznesa). 2004. — № 7. -S.80.

[13] J.T. Xolmuminov, Narmatov N.S., Kuldoshev N.A., Grajdanskoye i Semeynoye pravo, Izdatelskiy Sentr "Akademiya" 2008 — s.81; Zokirov I.B., Xusanov O.T., Baratov N.X., Imomov N.F. Grajdanskoye pravo, 3e izd., ILM ZIYO, 2012-s.57; Ruziyev R.J., Choriyev M.Sh., Xodjayev Ye.K., Sobstvennost i yee pravovoye i dogovornoye prioreteniye v predprinimatelskoy deyatelnosti, Navruz 2014-s.41; Ismanjanov A. Pravovye osnovy kommercheskogo obrasheniya informatsionnyh produktov v seti Internet: Dis. …kand. yurid. nauk. – T., 2006; Nasriyev I. Shaxsiy nomulkiy huquqlarni amalga oshirish va muxofaza qilishning fuqarolik huquqiy muammolari: yurid. fan. dokt. dis. ... Avtoref. –T., 2006; Oqyulov O. Intellektual mulk huquqi. – T., 2005; Oqyulov O. Intellektual mulk huquqiy maqomining nazariy va amaliy muammolari. – T., 2004; Toshev B. Axborot texnologiyalari va mualliflik huquqi.– T., 2004; Toshev B. Axborot texnologiyalari va mualliflik huquqi. – T., 2004; Safoyeva S.M. Intellektual mulk obyektlaridan tijorat muomalasida foydalanishning huquqiy shakllari. O‘quv qo‘llanma. – T., 2009.

muammolari" (2017-2024) tadqiqot o‘tkazish ustuvor yo‘nalishlari doirasida amalga oshirildi.

**Tadqiqotning maqsadi** axborotning fuqarolik huquqiy maqomini aniqlash va uning maxsus turlari bilan o‘zaro nisbatini belgilash va uyg‘unlashtirish, shuningdek uning fuqarolik almashinuvining optimal mexanizmini aniqlash va shu qatorda axborotning onlayn tarmoqlarda huquq egasining manfaatlarini himoya qilish bilan bog‘liq huquqiy yechimlar topishdan iborat.

**Tadqiqotning vazifalari:**

Huquqiy himoyada turli cheklovlarga ega bo‘lgan intellektual mulki va tijorat sirlarining ayrim turlari bilan cheklanmasdan, kengroq toifadagi axborot turlarini himoya qilishga qaratilgan axborotning fuqarolik huquqiy kategoriyasini ishlab chiqish. Mualliflik huquqi himoyasi axborotni ma’lum taqdim etilish shakli bilan cheklangan bo‘lib, mulk huquqi esa individual obyektlarni himoya qilgani qaratilgani uchun, axborotni king qamrovli himoya qila olishmaydi. Shu bilan birga mulk huquqi axborotga vaqt bilan cheklanmagan mutlaq himoya taqdim etishi mumkin, mulkni qaytarishni (vindikatsion) va foydalanishdan barcha cheklovlarni olib tashlash (negator) talablari orqali. Mulk huquqlarini tan olish uchun asos qatori sarflangan mehnat standarti bo‘yicha Loke nazariyasi,[14] va virtual obyektlarga huquqlarni tan olgan yangi keyslarni asosida. Bunga huquqqa analogiya qatori “ma’lumotlar bazalarini huquqiy himoya qilish to‘g‘risida”gi Yevropa Ittifoqi Qonuni modeliga ko‘ra sarflangan mehnat yoki kiritilgan investitsiya (kapital yoki inson salohiyati) qo‘llanilishini ko‘rib chiqish;[15]

Axborotni yaratishda keng doiradagi axborotdan ajratish huquqiy ahamiyatini o‘rganib chiqish. Fuqarolik huquqi axborotlarini ayrim turlari (davlat ma’lumotlaridan tashqari) shaxsiy mulkka aylantirilishi asoslarini o‘rganib chiqish. Buni fuqarolik huquqi obyektlariga huquq orttirish yo‘llari bilan bog‘lash. Axborotning egasi va foydalanuvchisi, shuningdek birinchi va keyingi egasi orasidagi munosabatlarini aniqlash;

Axborotga nisbatan huquq bir vaqtni o‘zida tijorat siri bo‘lgan obyektlardan tashqari mavjud bo‘lmasligi haqidagi taniqli bayonotni sinash. Himoyalangan axborotni faqat tijorat siri bilan cheklanmasdan (tijorat siri rejimi axborotni fuqarolik muomalasini cheklanganligi tufayli), keng doiradagi fuqaroviy huquqiy axborotning uni rejimidan ajratish yo‘llarini izlab chiqish. Bu maxfiy axborotning almashinuvi axborotlarning uning aniq ravishda oshkor bo‘lishi vaziyatiga olib kelishini ta’kidlaydigan “Muqarrar oshkor etilish” doktrinasi bilan bog‘lash;

Axborotning himoya qilishini mutlaq maxfiylikdan ko‘ra, nisbiy va kontekstga asoslangan himoyasi yondashuvi qo‘llash imkoniyatini o‘rganib chiqish. “Ishonch huquqi” modeli bo‘yicha maxfiylik majburiyatini o‘z ichiga olgan holatlarga e’tibor qaratgan holda “Law of Confidence” himoya qilish yo‘llarini ishlab chiqish;

Mualliflik huquqi himoyasini ko‘llash uchun originallik darajasi yetarli bo‘lmagan, mashhurligi ortib borayotgan kichik media shakldagi axborotga, axborot kontenti himoyasini ko‘llashni tadqiq etish. Bu obyektlarni shakli bo‘yicha emas, balki mazmuni bo‘yicha, himoya etishga qaratilgan. Axborotni shakli o‘zgargan bo‘lsa ham,

[14] John Locke (1960) Second Treatise of Government, Sect.27.

[15] Directive on the Legal Protection of Databases of 11 March 1996, L77, 1996-03-07, pp.20-28.

mazmuni bo‘yicha himoya qilish imkoniyatini o‘rganib chiqish. Ilg‘or tajriba asosida axborot kontentini ta’rifini berish va qonunchilikka tatbiq etish yo‘llarini ishlab chiqish. Katta ma’lumotlar “Big Data” huquqiy ta’rifini berish va uning tabiatini inobatga olgan holda, uning tartibga solishni tegishli huquqiy rejimini qo‘llash;

Axborotning huquqiy tartibga solish an’anaviy usullari orqali, fuqarolik huquq obyekti sifatida joriy etish yo‘llarini o‘rganish, shuningdek fuqarolik muomalaga elektron obyektlarni tatbiq etishda muvaffaqiyatga erishgan Yevropa Ittifoqi qonunchiligi modeliga ko‘ra, fuqarolik qonunga “tovar” universal ta’rifi orqali muomalaga kiritish yo‘lini o‘rganib chiqish;

Axborotning, uning maxsus sifatlarini inobatga olgan holda va ruxsatsiz tarqatishini hal etish uchun, uning fuqarolik muomalasiga kiritishga eng munosib huquqiy rejimni aniqlash. Axborotning sifatini, xususan, ko‘paytiruvchanligini hisobga olgan holda, asl egasini himoya qilish xususiyati inobatga olib, oldi-sotdidan ko‘ra litsenziya shartnomasini axborotning fuqarolik muomalasini ta’minlashining mos mexanizmi sifatida ko‘rib chiqish;

Himoyadan istisnolar oqibatlarini tahlil etish, xususan, muallifning roziligisiz mualliflik huquqi va turdosh huquqlarni obyektlarining qayta sotish taqdirda va haq to‘lamagan holda,[16,17] qonuniy nashr etilgan obyektlaridan foydalanishini imkonini beruvchi huquqni “tugab bitishi” (doctrine of exhaustion) yoki “birinchi sotish” doktrinasini (first sale doctrine) an’anaviy obyektlar bilan bog‘lovchi amaliyotga muvofiq, bu huquq obyektlarini electron obyektlarga nisbatan cheklashni o‘rganib chiqish;

Internet tarmog‘ida axborotni ko‘rish foydalanuvchining axborot tizimi tomonidan avtomatik ravishda ma’lumot nusxalarini yaratganiga qaramasdan, xuddi real maydonda huquqbuzarlik hisoblanmaganday, buni virtual makonda ham istisno kiritish kerak. Bu orqali oddiy foydalanuvchini va huquqbuzarlikka aloqasi yo‘q bo‘lgan axborot vositachi javobgarligini oldini olish mumkin. Bu avtomatik ravishda ishlagan axborot tizimlar — brauzerlar, elektron qidiruv tizimlariga (search engine), va boshqa axborot xizmarlarga taalluqli;

O‘zbekiston Respublikasi fuqarolik kodeksida shartnomalar tuzish talablariga rioya qilish uchun, axborot produktlarini almashinuvini ta’minlash maqsadida, internetda tuzilgan shartnomalarni o‘ziga xos xususiyatlarini ko‘rib chiqish lozim. Bu esa fuqaroviy qonunchilikni oferta va aksept an’anaviy tushunchalari internet orqali amalga oshiriladigan bitimlar talabiga javob berishini aniqlab chiqishni talab qiladi. Shu bilan birga dunyoning yetakchi axborot iqtisodiyotlarining ushbu masalani huquqiy tartibga solish bilan bog‘liq yondashuvini o‘rganib chiqish maqsadi qo‘yiladi;

Internetda axborot – axborot vositachilar orqali uzatilgani bois, mualliflik huquqining va axborotga nisbatan huquqni buzilishini provayderlar orqali oldini olish maqsadga muvofiqdir. Ushbu jarayonni ta’minlash uchun obyektiv qoidalarni yaratish uchun “Safe Harbour” va “Mere Conduit” kabi ilg‘or doktrinalarini ko‘rib chiqish

[16] O’zbekiston Respublikasining 2006-yil 20-iyulda qabul qilingan “Mualliflik huquqi va turdosh huquqlar to’g’risida”gi O‘RQ-42-son Qonuni // O’zbekiston Respublikasi Oliy Majlisining Axborotnomasi, 2006-yil, 28-29-son, 260-modda, 25 moddasi..

[17] O’zbekiston Respublikasining 1994-yil 6-maydagi 1060-XII sondagi “Elektron hisoblash mashinalari uchun yaratilgan dasturlar va ma’lumotlar bazalarining huquqiy himoyasi to’g’risida”gi qonuni // Oliy Kengash Axborotnomasi // 1994-y., 5-son, 136 modda, 13 moddasida.

nazarda tutilgan. Ushbu doktrinalarga muvofiq, axborot vositachilari kontentni monitoringi yoki tahlilini ko‘rmasa, javobgarlikdan ozod etilish nazarda tutilgan. Elektron media tarmoqlarda axborotga huquqni buzilishini, axborot vositachining tomonidan huquq buzishini oldini olishidan bosh tortishiga qarshi, “Irodali inobatga olmaslik” doktrinasini qo‘llanilishini ko‘rib chiqish zarur;

Axborot kontenti oqimi bilan onlayn video almashinuv tarmoqlarining iqtisodiy modellari axborotning huquqiy himoyasiga ta’sirini tadqiq etish lozim. YouTube asosiy video kontent almashinuv tarmogi bo‘lib borayotgani uchun, unda qo‘llanilgan himoya usulining ishlashi, huquq egasiga va foydalanuvchilarga nisbatan oqibatlarini, va ular ko‘llagan himoya usulini huquqiy himoya usullariga muvofiqligini o’rganib chiqish lozim. Kontentni tarmoqda huquq egasini ruxsatisiz joylashtirishga qarshi chorasini maqsadga muvofiqligini, va qanchalik taraflarni manfaatlariga to‘g‘ri kelishini aniqlash maqsad etib qo‘yiladi;

Yangi avlod axborot obyektlari, ya’ni kompyuter generativ obyektlar (CGW), generativ dasturiy ta’minot yoki sun’iy intellekt (AI) yordamida yaratilgan obyektlar, ularga nisbatan fuqarolik huquqining obyekti sifatida egalik qiluvchi mezonni belgilashni talab qiladi. Shu bilan birga, bu mualliflik huquqi tomonidan aniqlik kiritishni talab etadi va shu bois ushbu tadqiqotni vazifalaridan biri etib belgilangan. Buyuk Britaniyaning muvozanatli yondashuvini qo‘llash yo‘lini o‘rganib chiqish va bu obyekt generatsiyasini tayyorlash uchun zarur choralarni ko‘rgan shaxsga mualliflik huquqini tayinlash yo‘lini taklif etadi. Bu mualliflik huquqiga ega bo‘lmagan asarlarning paydo bo‘lishini bartaraf etishga qaratilgan. Biroq, originallik standartiga javob berish uchun yetarli bo‘lmagan asarlar uchun kvazi mulk huquqi rejimi yechim olib kelishi mumkin;

Genomik ma’lumotlar ko‘rinishida taqdim etilgan yangi axborot turlarini himoya qilish imkoniyatini tadqiq etish va bu ma’lumotlardan maxfiylikni himoya qilishni qonun bilan bog‘liq holda foydalanish talablarini belgilash maqsadda tutilgan. Shu qatorda “Big Data” ya’ni katta ma’lumotlar maqomini aniqlab ular bilan fuqarolik munosabatlarni xususiyatini belgilash nazarda tutilgan. Ommaviy axborot platformalarida fuqarolik axborot almashinuvi turkumidagi ochiq ma’lumotlarni standartlarga ko‘ra egasiga bevosita emas, balki bilvosita foyda olib kelish orqali fuqarolik munosabatga kiritishni o‘rganib chiqish maqsad etib qo‘yiladi.

**Tadqiqotning obyekti** fuqarolik muomalasiga axborotni kirib kelishi, ya’ni axborotni yaratish, undan foydalanish va uzatish bilan bog‘liq huquqiy munosabatlardan tashkil topadi. Tadqiqotning empirik asoslari axborotga huquqlarni ko‘rib chiqqan, provayderlar tomonidan uzatiladigan axborot bilan bog‘liq javobgarligi bo‘yicha sud qarorlari, shuningdek, xususiy-huquqiy turdagi axborot obyektlarini, shu jumladan, xalqaro elektron media platformalarini o‘z ichiga olgan fuqarolik bitimlar bo‘yicha tegishli muhokamalarini sud amaliyotiga asoslanadi.

**Tadqiqotning predmeti** axborotning fuqarolik muomalasini huquqiy ta’riflash va tartibga solish borasidagi yondashuvlar, qoidalar va muammolar bo‘lib chiqadi. Tadqiqotning empirik asosini axborot provayderlarining ular tomonidan uzatilgan axborotga nisbatan javobgarligi to‘g‘risidagi sud qarorlari, shuningdek fuqarolik-huquqiy bitimlar, shu jumladan xususiy-huquqiy turdagi axborot obyektlari bo‘yicha sud muhokamalardagi topilmalari va qarorlari, xalqaro elektron media platformalarida

uchraydiganlar bilan birga.

**Tadqiqotning usullari.** Tadqiqotda fuqarolik huquqiy holatlarini tizimli tahlili, mantiqiy (analiz, sintez), qiyosiy tahlil, qiyosiy-huquqiy, formal huquqiy va fuqarolik ishlarida tahliliy tadqiq qilish usullaridan foydalanildi. Doktrinal tadqiqot nazariyalar tahlilida o‘z aksini topgan va takliflarda ifodalangan amaliy yondashuv bilan birlashtiriladi. Kontekstdagi huquq usuli yoki, ijtimoiy-huquqiy tahlil taklif etilgan standartlarini ko‘llashni oqibatlarini talqil qilishda ishlatilgan. Empirik usuli raqamli axborot bo‘yicha elektron media platformalarida tajribalarni o‘rganishda qo‘llaniladi.

**Tadqiqotning ilmiy yangiligi**:

O‘zbekiston Respublikasida ochiq ma’lumotlar sohasini rivojlantirishni sababli asosiy maqsadli ko‘rsatkichlar va indikatorlarga erishishga asoslangan holda tashkil etish asoslantirilgan;

“ma’lumotlar sifati va talabi” monitoringi sifatida talab qilingan ma’lumotlarda jamiyat uchun eng katta qiziqish va ahamiyatga ega bo‘lgan axborotni tushunish asoslantirilgan;

ochiq ma’lumotlar bo‘yicha internet hamjamiyatni shakllantirish va internet jahon axborot tarmog‘ida ochiq ma’lumotlardan foydalangan holda faoliyat yuritayotgan dasturiy mahsulotlar va xizmatlar bozorini yaratish va takomillashtirish zarurligi asoslantirilgan;

genomga oid axborotga ishlov berish shart-sharoitlari uning yo‘qotilishi, buzilishi va undan ruxsatsiz foydalanilishi, xuddi shuningdek qonunga xilof ravishda va (yoki) bexosdan foydalanilishi, va (yoki) genomga oid axborot mavjud bo‘lgan elektron axborot resurslarga ta’sir ko‘rsatilishi imkoniyatini bartaraf etish asoslantirilgan;

genomga oid axborotga ishlov berish shartlariga ko’ra faqat olingan ma’lumotlarning muhofaza qilinishini ta’minlash bo‘yicha shart-sharoitlar mavjud bo‘lgan taqdirda amalga oshirilishi asoslantirilgan.

**Tadqiqotning amaliy natijalari** O‘zbekiston Respublikasi fuqarolik kodeksi, “mualliflik huquqi va turdosh huquqlar to‘g‘risida”gi qonun, “axborotlashtirish to‘g‘risida”gi qonun, “tijorat sirlari to‘g‘risida”gi qonun va “kompyuter dasturlari va ma’lumotlar bazalari to‘g‘risida”gi qonun, “elektron tijorat to‘g‘risida”gi qonun, va bir qator boshqa normativ hujjatlarga o‘zgartirish kiritish taklif etiladi. Amaliy nuqtayi nazaridan tadqiqot natijalari va tavsiyalari huquqni muhofaza qilish amaliyotida muhim ahamiyat kasb etuvchi fuqarolik huquqi, mulkiy huquq va tovarlar obyekti sifatida axborotning huquqiy maqomi bo‘yicha munosabatlarni tartibga solishga aniqlik kiritadi. Dissertatsiya tadqiqotining bir qismi sifatida ishlab chiqilgan axborot produktini bosqichma-bosqich yangilashga asoslangan axborotni himoyalash usuli Toshkentdagi xalqaro Vestminster universiteti qoshidagi “InnoWIUT” innovatsiya markazida qo‘llanilmoqda. Axborot produktini oshkor qiluvchini aniqlash imkonini beruvchi, uzatiladigan axborot mahsulotni reyestrini yuritish bilan axborotni bosqichma-bosqich yangilash orqali himoya qilish usuli taklif etiladi. Litsenziya shartnomasida ushbu imkoniyatni axborot foydalanuvchiga bildirish uning ruxsatisiz tarqatilishini oldini olish imkonini beradi. Mazkur usul axborot mahsulotni oshkor qilgan shaxsni aniqlash imkoniyati orqali axborotni huquq egasini ruxsatisiz tarqatishini oldini olish imkonini beradi.

**Tadqiqot natijalarining ishonchliligi**. Tadqiqotda ilmiy tadqiqotning umumiy

va maxsus usullaridan foydalanilgan. Tadqiqot natijalari xalqaro va mahalliy huquq, ilgor davlatlar tajribasi, fuqarolik huquqi va axborot huquqi bo'yicha yetakchi huquqiy amaliyot, xususiy huquqning umume'tirof etilgan normalari, boshqa ishonchli manbalar va ilmiy dalillarga asoslangan. Xulosa, taklif va tavsiyalar aprobatsiya qilinib, natijalari mamlakatimiz va xorijiy yetakchi nashrlarda chop etildi. Olingan natijalar vakolatli organlar tomonidan tasdiqlanib, amaliyotga joriy etilgan.

**Tadqiqot natijalarning joriy qilinishi.**

Axborotning fuqarolik-huquqiy maqomi va fuqarolik-huquqiy axborot bilan munosabatlarda foydalanish va uni muhofaza qilishning huquqiy jihatlarini aniqlash, tartibga solish va hal qilish yo'llari bo'yicha olingan ilmiy natijalar asosida:

O'zbekiston Respublikasida ochiq ma'lumotlar sohasini rivojlantirish asosiy maqsadli ko'rsatkichlar va indikatorlarga erishishga asoslangan holda tashkil etish to'g'risidagi taklifi O'zbekiston Respublikasi Vazirlar Mahkamasining "O'zbekiston Respublikasida ochiq ma'lumotlar sohasini yanada rivojlantirish chora-tadbirlari to'g'risida"gi 2020-yil 23-dekabrdagi 808-son qarori bilan tasdiqlangan 2021-2025-yillarda O'zbekiston Respublikasida ochiq ma'lumotlar sohasini rivojlantirish konsepsiyasining O'zbekiston Respublikasida ochiq ma'lumotlar sohasidagi joriy holat bo'yicha 2-bandini ishlab chiqishda foydalanilgan (O'zbekiston Respublikasi Vazirlar Mahkamasining 2021-yiling 1-mart

12/21-08 sondagi dalolatnomasi). Mazkur taklifni amalga oshirilishi ochiq ma'lumotlar sohasini rivojlanishini aniqlash uchun tegishli ko'rsatkichlar va indikatorlarini belgilashga imkon bergan;

ma'lumotlar sifati va talabi monitoringi sifatida talab qilingan ma'lumotlar jamiyat uchun eng katta qiziqish va ahamiyatga ega bo'lgan axborotni tushunish taklifi, O'zbekiston Respublikasi Vazirlar Mahkamasining "O'zbekiston Respublikasida ochiq ma'lumotlar sohasini yanada rivojlantirish chora-tadbirlari to'g'risida"gi 2020-yil 23-dekabrdagi 808-son qarori bilan tasdiqlangan 2021-2025-yillarda O'zbekiston Respublikasida ochiq ma'lumotlar sohasini rivojlantirish konsepsiyasining ma'lumotlar ochiqligini metodik ko'llab-quvvatlashni ta'minlash bo'yicha 15-bandi va "b" kichik bandini ishlab chiqishda foydalanilgan (O'zbekiston Respublikasi Vazirlar Mahkamasining 2021-yiling 1-mart 12/21-08 sondagi dalolatnomasi); Mazkur taklifni amalga oshirilishi ochiq ma'lumotlarning sifatli ma'lumot talablarini aniqlashga va konsepsiya tomonidan belgilangan chora-tadbirlari orqali sifatli ma'lumotlarni rivojlantirishiga olib kelgan;

ochiq ma'lumotlar bo'yicha hamjamiyatni shakllantirish va internet jahon axborot tarmog'ida ochiq ma'lumotlardan foydalangan holda faoliyat yuritayotgan dasturiy mahsulotlar va xizmatlar bozorini yaratish va takomillashtirish bo'yicha taklifi, O'zbekiston Respublikasi Vazirlar Mahkamasining "O'zbekiston Respublikasida ochiq ma'lumotlar sohasini yanada rivojlantirish chora-tadbirlari to'g'risida"gi 2020-yil 23-dekabrdagi 808-son qarori bilan tasdiqlangan 2021-2025-yillarda O'zbekiston Respublikasida ochiq ma'lumotlar sohasini rivojlantirish konsepsiyasining ochiq ma'lumotlar asosidagi dasturiy mahsulotlar va xizmatlar bozorini yaratish va takomillashtirish bo'yicha 21-bandini ishlab chiqishda foydalanilgan (O'zbekiston Respublikasi Vazirlar Mahkamasining 2021-yiling 1-mart 12/21-08 sondagi dalolatnomasi). Mazkur taklifni amalga oshirilishi ochiq ma'lumotlar bo'yicha

hamjamiyatni shakllantirish va Internet jahon axborot tarmog‘ida ochiq ma’lumotlardan foydalangan holda faoliyat yuritayotgan dasturiy mahsulotlar va xizmatlar bozorini yaratish va takomillashtirishga xizmat qilgan;

genomga oid axborotga ishlov berish shart-sharoitlari uning yo‘qotilishi, buzilishi va undan ruxsatsiz foydalanilishi, xuddi shuningdek qonunga xilof ravishda va (yoki) bexosdan foydalanilishi, va (yoki) genomga oid axborot mavjud bo‘lgan elektron axborot resurslarga ta’sir ko‘rsatilishi imkoniyatini istisno etishini ta’minlash talabi O‘zbekiston Respublikasining 2020-yil 24-noyabrdagi “Genom bo‘yicha davlat ro‘yxatiga olish to‘g‘risida”gi O‘RQ-649-sonli Qonuni 23-moddasini genomga oid axborotga ishlov berish va uni muhofaza qilishga doir asosiy talablarni ishlab chiqishda foydalanilgan (O‘zbekiston Respublikasining Oliy Majlis Senatining Sud-hukuk masalalari va Korrupsiyaga qarshi kurashish qo‘mitasining 24-mart 2021-yil tomonidan 8-sondagi dalolatnomasi). Mazkur taklifni amalga oshirilishi genomga oid axborot mavjud bo‘lgan elektron axborot resurslarga ta’sir ko‘rsatilishi imkoniyatini bartaraf etishini ta’minlagan;

genomga oid axborotga ishlov berish, faqat olingan ma’lumotlarning muhofaza qilinishini ta’minlash bo‘yicha shart-sharoitlar mavjud bo‘lgan taqdirda amalga oshirilish bo‘yicha qoidasi O‘zbekiston Respublikasining 2020-yil 24-noyabrdagi “Genom bo‘yicha davlat ro‘yxatiga olish to‘g‘risida”gi O‘RQ-649-sonli Qonuni 23-moddasini, genomga oid axborotga ishlov berish va uni muhofaza qilishga doir asosiy talablarni ishlab chiqishda foydalanilgan (O‘zbekiston Respublikasining Oliy Majlis Senatining Sud-hukuk masalalari va Korrupsiyaga qarshi kurashish qo‘mitasining 24-mart 2021-yil tomonidan 8-sondagi dalolatnomasi). Mazkur taklifni amalga oshirilishi genomga oid ma’lumotni shart-sharoitlar bo‘lmasa ishlov berishni bartaraf etishni ta’minlagan.

**Tadqiqot natijalarini aprobatsiyasi.** Tadqiqot natijalari 9ta ilmiy tadbirda, jumladan, 3ta xalqaro va 6ta milliy ilmiy-amaliy konferensiyalarida va ko‘plab ilmiy seminarlarda sinovdan o‘tkazildi. Dissertatsiya tadqiqotining axborotga kvazi-mutlaq huquqi va “ishonch huquqi” qo‘llanilishi xaqida, internetda “tugab bitish” huquqi cheklanishi haqida, kompyuter ishlab chiqqan ob’ektlarga nisbatan huquqlar haqidagi natijalari, Toshkentdagi xalqaro Vestminster universitetdagi (TXVU) huquq bo‘limida “Internet Law” darsini o‘tishda qo‘llanilmoqda.

**Tadqiqot natijalarining e’lon qilinganligi**. Umumiy hisobda, tadqiqotda dissertatsiyaning asosiy ilmiy natijalarini e’lon qilish uchun 19ta ilmiy ish, jumladan, monografiya, xalqaro akademik nashriyotda kitob, 10ta maqola (7ta milliy va 2ta xalqaro jurnal) oliy attestatsiya komissiyasi tomonidan tavsiya etilgan nashrlarda chop etilgan. International Journal of Legal Studies nashrida, №1(5) 2019 maqolasi xalqaro Index Copernicus ICV: 99.6 Impakt faktori bilan nashr etildi. Dissertatsiyaning kontseptual asoslari yetakchi xalqaro akademik noshir Volters Klyuverning intellektual mulk ensiklopediyasi tomonidan dissertant muallifligida nashr etilgan.

**Dissertatsiyaning tuzilishi va hajmi**. Dissertatsiya kirish, to‘rtta bob, xulosa, va foydalanilgan adabiyotlar ro‘yxatidan iborat. Dissertatsiya hajmi 277 betni tashkil etadi.

## DISSERTATSIYANING ASOSIY MAZMUNI

Dissertatsiyaning **kirish** qismida dissertatsiya mavzusining ahamiyati va dolzarbligi, shuningdek, ilmiy tadqiqotning ustuvor yo‘nalishlari, tadqiqot muammosining o‘rganilganlik darajasi, dissertatsiya mavzusining dissertatsiya bajarilgan oliy ta’lim muassasasining tadqiqot rejalari bilan bog‘liqligi, uning maqsadi, vazifalari, obyekti va predmeti, tadqiqot usullari, uning ilmiy yangiligi va amaliy natijalari, tadqiqot natijalarining ishonchliligi, nazariy va amaliy ahamiyati, tadqiqot natijalarining joriy etilganligi, tadqiqot natijalarini aprobatsiyasi, tadqiqotning e’lon qilingan natijalari, shuningdek, ishning hajmi va tuzilishi haqidagi ma’lumotlar keltirilgan.

**Birinchi bob** “**Axborot fuqarolik huquqi va mulk huquqi obyekti qatori**” deb nomlanadi.

Axborotning fuqarolik huquqlarining obyekti sifatida o‘tgan asrdan beri ilmiy muhokamalar markazida bo‘lib kelgan, uning muammolariga turli qarashlarning mavjudligi bilan. Cheklangan yondashuvda faqat intellektual mulk huquqi rejimiga kiruvchi ma’lumotlar, xususan, tijorat sirlari kabi turli xil ma’lumotlarda fuqarolik-huquqiy himoyaga munosib bo‘lgan yondashuv mavjud. Keng yondashuvda, himoyalanadigan axborot tijorat siri bilan cheklanmagan bir qator axborotlarni o‘z ichiga oladi.

Bugungi kunda xalqaro tarmoqda nashrlar, sharhlar ko‘rinishida yangi obyektlar paydo bo‘lmoqda, ular server axborot kontenti turida, elektron shaklda internetga joylashtirilgan tasvirlar, rasmlar, animatsiyalar, kollajlar va boshqalar kabi turli xil media fayllarni ham o‘z ichiga olishi mumkin.[18] Shuningdek, O‘zbekiston Respublikasi fuqarolik qonunchiligining takomillashtirish konsepsiyasida ko‘rsatilgan yig‘ish va qayta ishlashni tartibga solish to‘g‘risida “big data” shaxsi ko‘rsatilmagan ma’lumotlarning sezilarli massivlari bo‘lishi mumkin.[19] “Kompyuter tranzaksiyalar bo‘yicha” umumiy qonunning 37-moddasiga ko‘ra, axborot kontenti– bu axborotdan yoki uning ekvivalentidan foydalanishning oddiy ma’nosida uzatilishga va qabul qilinishga mo‘ljallangan axborotdir.[20] Shu o‘rinda, axborot kontentida mualliflik huquqi kelib chiqqan o‘zgaruvchan shakldan ko‘ra ko‘proq mazmunga e’tibor qaratiladi va shakli o‘zgarganda uning himoyasi murakkablashadi. Agar axborot kontenti insonning ijodiy ishi natijasida yaratilgan bo‘lsa, u mualliflik huquqi bilan himoyalanadi. Biroq, kichik obyektlar holatida ulardagi ijodiy hissa juda kam bo‘lishi mumkin va *’De Minimis’* doktrinasiga ko‘ra, uni mualliflik huquqi bilan himoya qilinishi uchun originalligi darajasi yetarli bo‘lmagan obyektlarni himoya qilish uchun boshqa asoslar talab qilinadi.

Shu bilan birga, fuqarolik huquqi axborotiga nisbatan uni tartibga solishning umumiy talablarini aniqlash mumkin. Bu talablar fuqarolik huquqining dispozitivlikka asoslangan bo‘lib va fuqaroviy huquqi obyektlarini belgilanishining tugallanmaganligi bilan mustahkamlangan. Fuqarolik huquqi muayyan obyektlarni

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[18] Michael Dashyan, Law of Information Superhighways: Matters of Legal Regulations in the Internet / M.S.Dashyan. – M.: Wolters Kluwer, 2007.-288 p. P.288.

[19] O’zbekiston Respublikasi Prezidentining O’zbekiston Respublikasining fuqarolik qonunchiligini takomillashtirish chora-tadbirlari to’g’risida 2019-yilining 5-apreldagi №R-5464 rakamli Farmoyishi // QHMMB, 2019. № 2891, — 1.

[20] Uniform Computer Information Transactions Act (UCITA), available at http://www.law.upenn.edu/bll/ulc/ulc.hn#ucita

batafsil tartibga solayotgan holati, u boshqa obyektlarni himoyasiz qoldirayotganini anglatishi emas, balki qonun ijrochi uni muayyan obyekt uchun batafsil standartlarni belgilashni maqsadga muvofiq deb hisoblashini nazarda tutadi. Fuqarolik huquqi muomalada cheklangan obyektlarni belgilashi, qolgan obyektlarni cheksiz fuqarolik aylanmasiga ega deb topishga asos beradi.

Axborot – O‘zbekiston Respublikasi Fuqarolik kodeksining 81-moddasida fuqarolik huquqi obyektlari tarkibida belgilab o‘tilgan, va tabiatan nomoddiy obyektlar toifasida kiradi.[21] Shunga qaramasdan, axborotni fuqarolik huquqlari obyektlari tarkibiga alohida kiritish talab qilinadi, xuddi Rossiya Federatsiyasi axborotni fuqarolik huquqlarining maxsus obyektlari deb hisoblab, fuqarolik kodeksining 128-moddasida qo‘llanilganidek.[22] Bu mavjud tijorat siri rejimidan tashqari bo‘lgan keng turdagi axborotga e’tirof etish, va ularga kvazi-mutlaq huquqini e’tirof etish uchun ham zarurdir. L.V. Tumanova va A.A. Snitnikov tomonidan ko‘rsatilgan fuqarolik huquqining obyekti sifatida tan olish uchun axborotning cheklangan standarti uni ochiq domendagi (jamoat mulki) ma’lumotlaridan ajratish imkonini beradi. Axborotni reglamentatsiyasi bir shaxsdan ikkinchi shaxsga universal vorislik tartibida o‘tadigan fuqaroviy-huquqiy axborotlarining amaldagi almashinuvidan kelib chiqqan holda ham zarurdir. Axborot obyektlarining almashinuvi internetda ulkan hajmlarga yetib, ommaviy virtual almashinuv platformalarni asosiy oqimi bilan bog‘liqdir.

Fuqarolik munosabatlari obyekti huquqiy kategoriyasining maqsadi fuqarolik almashinuviga mansub bo‘lgan obyektlarni belgilashda ifodalanadi. Fuqarolik huquqini tartibga solish usuliga ko‘ra, fuqarolik huquqi obyektlarining tugalmasligi, umumiy tovar kategoriyasi shaklidagi axborot muomalasi uchun istiqbollarini ochadi. Tovar kategoriyasi, fuqarolik huquqi obyektlarining almashinuv shakli sifatida foydalangan, maxsus tartib o‘rnatilgan alohida fuqarolik huquqi obyektlariga nisbatan afzallikka egadir. Yevropa Ittifoqi qonuni tovarning ta’rifini qiymatida ifodalangan va tijorat bitimining obyekti bo‘la olishi mezoni o‘rnatilgan, va bu iTunesdagi elektron obyektlarni tijorat bitim predmeti bo‘lishini imkonini yaratgan.[23] Tovar kategoriyasidan foydalanish uchun har bir muayyan huquq obyektini maxsus fuqaroviy huquqiy tartibga solish zaruriyatisiz keng turdagi obyektlarning fuqarolik almashinuvini ta’minlashi mumkin.

O‘zbekiston Respublikasining 31-dekabr 2022-yildagi “Elektron tijorat” to‘g‘risidagi qonunining 3-moddasiga muvofiq elektron tijorat tadbirkorlik faoliyati doirasida axborot tizimlaridan foydalangan holda elektron savdo maydonchasi orqali tuzilgan shartnomaga muvofiq amalga oshirilgan oldi-sotdisidir.[24] Biroq, tovar ta’rifi uning qiymati va fuqarolik almashinuvi mumkinligini ko‘rsatgan holda, keng talqin shaklida berilishi lozim. Fuqaroviy huquq tartibga solish usuliga

[21] O’zbekiston Respublikasining fuqarolik kodeksi, birinchi qism // O’zbekiston Respublikasi Oliy Majlisining Axborotnomasi, 1996-y., 2-songa ilova., 189 modda.

[22] Grajdanskiy kodeks Rossiyskoy Federatsii (chast pervaya) ot 30-noyabrya 1994 Sobraniye zakonodatelstva RF. 1994. № 32. St. 3301.

[23] Case 7/68 *Commission v Italy (Art Treasures)* [1968] ECR 423

[24] O’zbekiston Respublikasining “Elektron tijorat to’g’risida”gi 2004-yil 29-aprel 613-II-sonli Qonuni, (yangi tahrir 2015-yil 22-maydagi O’RQ-385-sonli Qonuniga muvofiq. O’zbekiston Respublikasi qonun hujjatlari to’plami, 2004-y., 20 — son, 132-modda.

muvofiq, tovar kategoriyasi yana-da obyekt turiga moslashuvchan himoya qilish imkoniyatlarini taqdim etishi mumkin.

Fuqarolik-huquqiy usulga muvofiq, axborot rejimi, xususan, tijorat sirlarini yoki umuman intellektual mulkni mezonlari bilan cheklanib qolmasdan, yanada moslashuvchan himoya qilish imkoniyatlarini ochishi kerak. "**Ishonch huquqi**" bo'yicha fuqaroviy-huquqiy axborotni himoya qilish mexanizmi, tijorat siri maxfiylik standartlariga qat'iy to'g'ri kelishi zaruriyatisiz, maxfiylikni (kontekstga yo'naltirilgan) nazarda tutgan xollarda axborotni himoyasini ta'minlaydi. Shunga ko'ra axborotni himoya qilish mutlaq emas, balki nisbiy maxfiylik standartiga asoslangan rejimi, maxfiylikni nazarda tutgan sharoitlardan kelib chiqib, ruxsatsiz foydalanish uni topshirgan tomonga zarar yetkazishi mumkin bo'lgan holda qo'llaniladi. Bunday axborotni himoya qilish tartibi mutlaq emas, balki nisbiy maxfiylikka asoslanib, maxfiylikni nazarda tutgan xollarda ruxsatsiz foydalanish uni topshirgan tarafga zarar yetkazishi mumkin bo'lgan holda taqdim etiladi *Coco v Clark* keysiga asosan.[25]

Bu, ayniqsa, himoya qilinishi mumkinligini aniqlik bilan oldindan taxmin qilish mumkin bo'lmagan obyektlarga nisbatan xos hisoblanadi. Ushbu himoya usulining alohida afzalligi, ochiq holdagi axborot obyektni himoya qilish bo'lib, va bu uni reklama qilishni va sotishning dastlabki sharti hisoblanadi. Fuqarolik huquqida himoyalanayotgan axborotga yana-da moslashuvchan yondashuv, O'zbekistonda axborot produktlari ishlab chiqaruvchi tadbirkorlik rivojiga ijobiy ta'sir ko'rsatishi mumkin.

Axborot-nomoddiy obyektdir. Agar axborot moddiy vosita qayd etilgan bo'lsa ham, moddiy vosita axborotning o'zini ifodalamaydi, shuningdek, kim undan xabardor bo'lishi mumkinligini va kim undan foydalanishga vakolatli ekanligini aniqlamaydi. Minglab odamlar bir vaqtning o'zida bir xil axborotga ega bo'lishi mumkin va axborotga nisbatan egalik qilish ma'lumotlarni bilishi va tushunishini anglatadi. Axborotning katta xarajatlarsiz takrorlanuvchanligi sifati axborotning elektron shakli bilan bir necha marta kengaydi.[26] Bu xususiyat axborotning fuqarolik muomalasiga potensial xavf yaratadi va uni tartibga solish chora-tadbirlariga alohida yondashuvni talab qiladi. Axborotni fuqarolik muomalasiga kiritilganda, xarid qiluvchining nusxalar asliga o'xshash bo'lib qoladi. Shu sababdan asl mulkdorning huquqlarini keyingi foydalanuvchilarning huquqlaridan farqlash zarur bo'ladi va **litsenziya shartnomalari** buni amalga oshirish uchun to'g'ri keladigan vositasi hisoblanadi. Oldi-sotdi shartnomasi xaridorlar obyektga to'la huquqlarni, shu jumladan, tarqatish huquqini qo'lga kiritishda noma'qul holatni yuzaga keltiradi. Bu axborotga mulk huquqini qo'llashni cheklaydi, ammo shunga qaramasdan, bu huquq uni asl egasida mavjud bo'lishi mumkin.

D.Drui ma'lumotiga ko'ra, axborotga atributiv egalik qilish bir xil ma'lumotlarga ortiqcha himoya beradi va raqobatni buzish haqidagi da'volarini

[25] *Coco v A.N. Clark (Engineers) Ltd.* [1968] F.C.R. 415

[26] Raymond T. Nimmer, Patricia Ann Krauthaus, Information as a Commodity: New Imperatives of Commercial Law, 55 Law and Contemporary Problems (1992) 105

keltirishi mumkin.[27] Biroq, fuqarolik huquqi obyektlari nuqtayi nazaridan bir necha shaxsda fuqarolik huquqining bir xil obyektining mavjudligi, O‘zbekiston Respublikasi Fuqarolik kodeksining 87-moddasiga ko‘ra **umumiy xususiyatlarga ega bo‘lgan obyekt**ning holatini keltirib chiqadi.[28] V.A. Dozorsevga ko‘ra, bir necha shaxsda bir xil huquqning mavjudligi mutlaq emas, balki fuqarolik munosabatlarining obyektini ishga tushirish uchun yetarli monopoliyani yaratadigan kvazi-mutlaq huquqi bo‘lib hisoblanadi. Shunday qilib, mutlaq huquqlar o‘zgardi va kuchsizlangan mutlaq huquqlar sifatida kvalifikatsiya qilish boshlandi.[29]

Mutlaq huquqi, huquq egasiga turli harakatlarni amalga oshirish uchun va shu bilan birga ularni amalga oshirilishini o‘zga shaxslar tomonidan taqiqlashga subyektiv mutlaq huquq beradi.[30] Biroq, ilg‘or xalqaro yondashuviga muvofiq, mualliflik huquqi monopoliyani yaratmaydi, balki faqat asarga nisbatan muayyan harakatlarni bajarish uchun mutlaq huquqlarni keltiradi.[31] Shu munosabat bilan, asarlarni mavjud joylashtirilgan joyda ko‘rish imkonidan foydalanish noqonuniy deb hisoblanmaydi va hamda bu V.A.Dozorsev tomonidan ko‘rsatilgan fuqarolik axboroti himoyasini zaiflashtirish tendensiyasi bilan hamohangdir.

Axborotga egalik qilishni tan olish axborotning fuqarolik muomalasida bo‘lishning muhim sharti hisoblanadi.[32] Axborot har bir inson hayotining asosi ekan, ular bu axborotga egalik qilish huquqiga ega bo‘lishlari kerak. Axborotning muayyan nusxasi sotib oluvchining mulkiga kiritilishi va nomoddiy aktivlar sifatida baholanishi mumkin.[33] O‘zbekiston Respublikasining “Axborotlashtirish” to‘g‘risidagi qonunining 9-moddasida axborot resurslari va axborot tizimlariga nisbatan mulk huquqi tan olingan.[34] Bu esa axborotlarning fuqarolik huquqi va tovarlar obyekti sifatida almashinuviga huquqiy asos yaratadi. Biroq, uning axborot resurslari va tizimlari bilan cheklangani qayta ko‘rib chiqishni talab qiladi, chunki u ma’lumotlar bazasi kabi kompozit obyektning huquqiy rejimi bilan ifodalanadi. Himoyalanadigan axborotni murakkab huquq obyektlari bilan bog‘lash uning rejimidan axborot produktlarini chiqarib tashlab axborotni muhofaza qilish doirasini cheklaydi. Shuningdek, “user-producer” tushunchasiga ko‘ra murakkab obyektlardan ko‘ra, internetdagi alohida kichik axborot produktlarining ustunligi kuzatiladi.

Axborotning produktlari ikkilamchi qonunchilikda mulk va mulkiy huquq obyekti sifatida belgilangan. O‘zbekiston Respublikasi Vazirlar Mahkamasining 26-mart 1999-yildagi 137-son qarori 9-bandida “O‘zbekiston Respublikasi axborot resurslarini axborot uzatish tarmog‘i, shu jumladan, internetda tarqatish va

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[27] Jean Nicolas Druey, Information Cannot be Owned Research Publication No. 2004-05 4/2004, https://cyber.harvard.edu/wg_home/uploads/339/Druey.pdf

[28] O’zbekiston Respublikasining fuqarolik kodeksi, birinchi qism // O’zbekiston Respublikasi Oliy Majlisining Axborotnomasi, 1996-y., 2-songa ilova., 189 modda.

[29] Dozorsev V. A. Ponyatiye isklyuchitelnogo prava // Problemy sovremennogo grajdanskogo prava: Sb. statey. M.: Gorodes, 2000. – 297 s.

[30] Karaxodjayeva D.M., N.M.Akayeva, Sh.R.Yuldasheva, Grajdanskoye i semeynoye pravo, Ilm-Ziye, 2012,-440. s.370

[31] Ian J. Lloid, *Information Technology Law* (8th edn OUP 2017) 322

[32] Rassolov M.M. Informatsionnoye pravo: Uch. pos. M.:Yurait, 1999. s.47.

[33] Kopylov, V.A. O modeli grajdanskogo oborota informatsii // Jurnal Rossiyskogo prava 1999, №9, s.21-27.

[34] O‘zbekiston Respublikasining 2003-yil 11-dekabrda qabul qilingan "axborotlashtirish to‘g‘risida"gi 560-II-sonli Qonuni // O‘zbekiston Respublikasi Oliy Majlisining Axborotnomasi, 2004-yil, № 1-2, 10-modda.

tayyorlash to‘g‘risidagi Nizomni tasdiqlash haqida, “axborot produktlari” qayd etiladi.[35] Biroq bu ta’rifni O‘zbekiston Respublikasining “Axborotlashtirish to‘g‘risida”gi qonunining 9-moddasiga,[36] jumladan, axborot kontentiga nisbatan ham kiritish talab etiladi.

D.Drui axborotni ommaviy axborot ko‘lami bilan ifodalagani tufayli, ommaviy axborot himoyasiga nisbatan ishonchsiz deb topadi. Biroq, Tereshchenko ta’kidlashi bo‘yicha, ochiq bo‘lgan ommaviy axborot cheklov va ma’lum bir shaxs doirasiga ma’lumligida fuqarolik huquqining obyekti sifatida ega.[37] Bu cheklov strukturalari orqali amalga oshirilgan Wolters Klewer axborot produktlarida namoyon bo‘ladi, va unda natija produkti sifatida taqdim etiladi. Shu bilan birgalikda virtual obyektga egalik qilish choralari qo‘llaniladigan holatlar ko‘paymoqda. Xitoy sudi tomonidan da’vogar foydasiga onlayn o‘yinlar virtual obyektlarini tiklash, huquqiy amaliyotda virtual obyektlarga nisbatan mulk huquqlari vositalarini qo‘llash **“restitutsiya”** ramziy ma’nosini bildiradi.[38]

Mulk huquqdan foydalanishga to‘siq yaratuvchi barcha cheklovlarni olib tashlanishini talab qilish orqali (negator da’vo) vaqt bilan cheklanmagan himoyani taklif qilishi mumkin. Axborot ommaviy axborot holatida “Hamma yig‘ib olishi mumkin bo‘lgan ashyolarni mulkka aylantirish” kabi fuqarolik huquqi obyektlariga bo‘lgan huquqni qo‘lga kiritishning o‘ziga xos usullariga mos kelishi mumkin.[39] Axborotlashtirish to‘g‘risidagi qonunning 12-moddasining 4-qismida, ochiq ma’lumotdan xususiy axborot yaratish bo‘yicha qonunida ham aytib o’tilgan.[40] Lekin mazkur qonunning 9-moddasida axborotda mulk huquqi yaratadigan asoslar ichida axborotni birinchi marotaba yaratish mavjud emas, va buni tegishli qoyda bilan ta’minlash zarur. Ochiq ma’lumotlardan tashkil topib va huquqqa ega bo‘lgach, bu ma’lumot yana-da ochiq tarmoqqa uzatilishi mumkin va bu ma’lumotda huquq yo‘qotilishi emas, balki foydalanish huquqi amalga oshishi haqida dalolat beradi.

Okyulov O. haqqoniy ravishda ta’kidlaganidek, axborotga nisbatan uning turlarining rejimi mavjud bo‘lsa ham, umumiy huquqiy rejim mavjud emas.[41] Axborotda ijodiy hissa kam bo‘lgani tufayli mualliflik huquqi himoya qila olmagan chog‘da, *International News Service v Associated Press* sud qarori,[42] taqdim etilgan axborotning qiymati mavjudligidan kelib chiqib, elektron yangiliklar uchun **kvazi-mulk huquqlari**ni e’tirof etgan. Biroq, bu natija shunga o‘xshash holatlarda keyingi

[35] O‘zbekiston Respublikasi 1999-yilning “Axborot resurslarini tayyorlash va ularni ma’lumotlarni uzatish tarmoqlarida, shu jumladan, internetda tarqatish tartibi to‘g‘risidagi nizomni tasdiqlash to’g’risida” O’zbekiston Respublikasi Vazirlar Mahkamasini 137-sonli qarori 26.03.1999-yili kuchga kirgan.

[36] O’zbekiston Respublikasi 1999-yilning “Axborot resurslarini tayyorlash va ularni ma’lumotlarni uzatish tarmoqlarida, shu jumladan, internetda tarqatish tartibi to’g’risidagi nizomni tasdiqlash to’g’risida” O’zbekiston Respublikasi Vazirlar Mahkamasini 137-sonli qarori 26.03.1999-yili kuchga kirgan.

[37] Tereshenko L.K. Pravovoy rejim informatsii. Avtor. diss. d.yu.n.: M, 2011-54 s. S.14.

[38] Murray A. Information Technology Law. 2nd edn. – UK.: Oxford University Press, p.102.

[39] O‘zbekiston Respublikasining fuqarolik kodeksi, birinchi qism // O‘zbekiston Respublikasi Oliy Majlisining Axborotnomasi, 1996-y., 2-songa ilova., 189 modda.

[40] O‘zbekiston Respublikasining 2003-yil 11-dekabrda qabul qilingan "Axborotlashtirish to‘g‘risida"gi 560-II-sonli Qonuni // O‘zbekiston Respublikasi Oliy Majlisining Axborotnomasi, 2004-yil, № 1-2, 10-modda.

[41] Okyulov, O. Pravovoy status intellektualnoy sobstvennosti: dis. … d-ra yurid. nauk / O. Okyulov. – T. : TGYU, 2000. — s.42.

[42] *International News Service v. Associated Press*, 248 U.S. 215 (1918)

sud qarorlari bilan qo‘llab-quvvatlanmadi. “*Cheney Brothers v Doris Silk Corporation*”,[43] sud ishi bo‘yicha qaror, mehnat va ko‘nikmalar tatbiq etilgan har qanday turdagi axborotga huquq berishni noto‘g‘ri deb topdi. Keyingi hollarda, *Victoria Park Racing & Recreations Grounds CO. Ltd v Taylor*[44] keysida ko‘rsatilgandek sud umumiy axborot himoyasidan bosh tortdi.

MDH mamlakatlarining ba’zi sivilistlari ham moddiy obyektlarni, yoki axborot provayderlarni himoya qilishga qaratilganligi tufayli,[45] axborotga egalik qilish mumkin emasligini bildirdilar.[46] Nemis huquqida aniq ifodalangan moddiy va jismoniy huquq obyektlari aniqlash uchun kontinental huquq tizimiga xos an’anaviy yondashuv mavjud. Biroq, boshqa nuqtayi nazardan shu huquqiy rejimini fuqarolik huquqlarining boshqa obyektlariga, birinchi navbatda, qimmatli qog‘ozlarda ifodalangan mulkiy huquqlarga uzaytirishni ta’kidlaydi.[47] Ye.A. Suxanov axborot kabi o‘tkazish mumkin bo‘lgan egalikdagi ko‘char mulkka e’tibor qaratadi.[48]

Bundan tashqari, L.A. Tereshenko egasining huquqlarining klassik triadasi nomoddiy obyektlarga, xususan, foydalanish huquqiga taalluqli emasligini ta’kidlaydi, chunki uni son-sanoqsiz foydalanuvchilar ishlatishi mumkin, shuningdek, tasarruf etish huquqi, axborot begonalashtirilganda, haqdor shaxs undan keyingi foydalanish huquqini yo‘qotmaydi.[49] Bu A.Murrey takidlaganday, axborotning bitmas-tuganmas tabiati, bir axborotni qator foydalanuvchular ishlarishiga imkon beradi. Bu axborotga qvazi huquq bo’lishiga asos beradi, o’z nusxasiga haqqoniy, boshqa foydalanuvchilardan ustun bo’lmagan huquq asosida. Buroq, asl egasi axborotning tasarruf qilish huquqiga ega va modomiki bu axborotga egalik qiladigan boshqa shaxslar yo‘q ekan, dastlabki egasining axborotga toliq mulkchilik huquqi mavjudligi muqarrardir.

O‘zbekiston Respublikasining qonunchiligida mulk huquqi faqatgina ashyoga qaratilmagan. O‘zbekiston Respublikasining “Mulkchilik to‘g‘risida”gi Qonunining 1-moddasiga binoan, mulk huquqi o‘z xohishiga ko‘ra egalik qilishi, foydalanishi va tasarruf etishi mumkin bo‘lgan mol-mulkka taalluqli.[50] Shunday qilib, mulk huquqi ashyoga emas, balki egalik qilishi mumkin bo‘lgan obyektlarga bog‘liqdir. Bunday yondashuv mulkni obyekt sifatida emas, balki shaxs huquqi cheklanmagan miqdordagi shaxslarning majburiyatiga qarshi bo‘lgan munosabatlar sifatida ko‘rib chiqish orqali konseptual jihatdan qo‘llab-quvvatlanishi mumkin.

O‘zbekiston Respublikasining “Mulkchilik to‘g‘risida”gi qonunining 3-moddasi 1-bandida ko‘rsatilgan mulkiy huquqlarning turlari cheksiz xususiyatga ega deb topiladi va shu moddaning 2-bandida intellektual mulk bilan birgalikda axborot bilan bog‘liq munosabatlar maxsus qonun bilan tartibga solinishi ko‘rsatilgan. Bu

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[43] *Cheney Bros. v. Doris Silk Corporation*, 35 F.2d 279 (2d Cir. 1929)

[44] *Victoria Park Racing & Recreations Grounds CO. Ltd v Taylor* (1937) 58 CLR 479

[45] Severin V.A. Pravovoye regulirovaniye informatsionnyx otnosheniy, Yurist, №7, 2001, s.2-10.

[46] Gavrilov O. A. Informatsionno-pravovye sistemy Rossii: Teoretiko-pravovye problemy.-M.: "Yuridicheskaya kniga " i Che-Ro, 1998.

[47] Skryabin S., Вещ kak obyekt grajdanskix prav: Nekotorыe teoreticheskiye problemy / Yurist. — 2004. — № 6.

[48] Grajdanskoye pravo, v 2 t. T.1: uchebnik / Pod red. Ye.A.Suxanova.-2 izdaniye, — M.: BEK, 1998. S.299.

[49] Tereshenko L.A. i dr. Informatsiya i sobstvennost. Zaщita prav sozdateley i polzovateley kompyuternыx programm i baz dannyh.-M., Rossiyskaya yuridicheskaya akademiya pri Ministerstve Yustitsii, 1996

[50] O'zbekiston Respublikasining «O'zbekiston Respublikasida mulkchilik to'g'risida»gi Qonuni 1990 yil 31 oktyabr, № 152-XII — Oliy Majlis jurnali, 1990 yil, № 31-33, bet. 371.

esa O‘zbekiston Respublikasining “Axborotlashtirish to‘g‘risida”gi qonuniga tegishli bo‘lib, axborot obyektlarining turlariga qo‘shimchalar kiritishi orqali muvofiqlashtirish mumkin.[51]

Xalqaro yurisprudensiyada mulkiy huquqlarning belgilovchi atributlari bu uchinchi shaxslarning huquqlarini o‘tkazish (begonalashtirish) va istisno qilish qobiliyatlaridir (mutlaq jihat). Biroq, R.J.Smitning fikriga ko‘ra, mulk huquqi xarakteristikasi uchinchi shaxslarning huquqlarini iloji boricha istisno qilishida tatbiq qilinganidek, bunday huquqlarga egasidan kamroq huquqlarga ega bo‘lgan shaxslarga ham qo‘llaniladi.[52] Bu esa axborotga bo‘lgan kvazi-mutlaq huquqning tezisini qo‘llab-quvvatlaydi. Lokeni mehnat nazariyasi sarflangan mehnatga egalik huquqini tan olgan erta nazariya sifatida axborotni himoya qilishning kontseptual asosini tashkil qilishi mumkin. Buni yangi davrda elektron o‘yinlarda sud axborot obyektlariga nisbatan huquqni tan olganligi tasdiqlaydi.[53] Bunda Yevropa Ittifoqining “Ma’lumotlar bazasi” direktivasi modeliga asoslangan mulkiy huquqlarni egallash usuli aks ettirilgan bo‘lib,[54] u ushbu huquqning umumiy axborot obyektlariga kengaytirish imkoniyatini yuzaga keltiradi.

V.A. Kopilovning ta’kidlashicha, axborotning ma’lum nusxasini qo‘lga kiritgan foydalanuvchi o‘zining axborot olish huquqini amalga oshiradi, ammo uni tarqatishning mutlaq huquqi yo‘qligi tufayli uni fuqarolik muomalasiga kirita olmaydi.[55] Biroq, moddiy obyektlarga murojaat qilmagan holda huquqni “**tugab bitishi” yoki “birinchi sotish” haqidagi doktrinasi bunday axborotni qayta sotishga yo‘l ochadi**. R. Nimmer axborot mulkiga bir vaqtning o‘zida bir necha shaxslar egalik qilishi axborot xususiyati hisoblanishini ta’kidlaydi.[56] Andryu Myurey mulk huquqlaridan farqli o‘laroq, bir nechta shaxsning bir xil ma’lumotlardan foydalanishiga to‘sqinlik qilmaydigan va shuning uchun mulk huquqlaridan ko‘ra boshqa mexanizm qo‘llanilishi kerak bo‘lgan “raqobatlashmaydigan huquqlar” kabi obyektlarga bo‘lgan huquqlarni belgilaydi. Shunday asos axborotga (mutlaq huquqidan farqli) nisbiy huquq yaratishi mumkin.

Shuningdek, D.Drui jami ochiq massa bo‘lgan obyektlarga atributiv egalik huquqi mavludligingga shubha bildirdi.[57] Biroq, O‘zbekistondagi fuqarolik huquqi kodeksining 56-moddasida ochiq ashyolarni yig‘ish orqali huquqlarni qo‘lga kiritish qo‘llab-quvvatlangan. Bunda umumiy massadan ajratib chiqqan axborot nafaqat miqdoriy, balki sifat jihatdan ham o‘zgarish nazarda tutiladi.[58] Axborot shunday paydo bo‘lgan sifat aytilgan standartlar qatori ishlagan mehnat yoki sarflangan xarajat orqali paydo bo‘ladi.

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[51] [51] O‘zbekiston Respublikasining 2003-yil 11-dekabrda qabul qilingan "Axborotlashtirish to‘g‘risida"gi 560-II-sonli Qonuni // O‘zbekiston Respublikasi Oliy Majlisining Axborotnomasi, 2014 yil, №36, 452 modda.

[52] Rojer J. Smith, Property Law (9th edn Pearson 2017) p.4

[53] *Bragg v Linden Research*, Inc. Case analysis https://h2o.law.harvard.edu/cases/4435

[54] Directive of EU on the Legal Protection of Databases of 11 March 1996, L77, 1996-03-07, pp.20-28.

[55] Kopылov, V.A. O modeli grajdanskogo oborota informatsii// Jurnal Rossiyskogo prava 1999, №9, s.21-27.

[56] Raymond T. Nimmer, Patricia Ann Krauthaus, Information as a Commodity: New Imperatives of Commercial Law, 55 Law and Contemporary Problems (1992) 105

[57] Jean Nicolas Druey, Information Cannot be Owned Research Publication No. 2004-05 4/2004, at para 22 <https://cyber.harvard.edu/wg_home/uploads/339/Druey.pdf>

[58] O‘zbekiston Respublikasining fuqarolik kodeksi, birinchi qism // O‘zbekiston Respublikasi Oliy Majlisining Axborotnomasi, 1996-y., 2-songa ilova., 189 modda.

Axborotga nisbatan huquqni mutlaq huquq deb hisoblash mumkin emas degan nazariya mavjud, chunki o‘zga shaxslar ham mustaqil ravishda olish orqali unga bo‘lgan huquqni da’vo qilishlari mumkin.[59] Bu qoida tijorat sirlariga nisbatan mos kelsa-da, axborotga nisbatan butunlay o‘xshash obyektini mustaqil ravishda tasodifiy yaratish iloji nihoyatda kam yoki deyarli yo‘qdir. Bunga dalil etib o‘xshashlikni tekshirish tizimlari (anti-plagiarism check) faoliyati bilan tasdiqlanadi. Dunyo axboroti katta ko‘lamiga va doim ortib borayotganiga qaramasdan, mustaqil yaratilgan o‘xshash ma’lumotni uchratish haliyam ehtimoli yo‘q.

21-asrda ochiq ma’lumot inklyuzivlikni kengaytirish va innovatsiyalarni rag'batlantirish va ijtimoiy va iqtisodiy rivojlanishni ta’minlash uchun katta salohiyatga ega[60] va u bilan hamma foydalanishi kerak. [61] Normativ baza ochiq ma’lumotlar uchun cheklovchi muhitni yaratganligi sababli, litsenziyalar uning ochiqligiga erishish uchun zarur vosita bo’lishi kerak.[62]

Rozilik, anonimlashtirish, maxfiylik va ma'lumotlarni himoya qilish masalalari kabi axloqiy masalalarga taalluqli sensorlar, trekerlar, hisoblagichlar v.b. tarqalishi bilan katta ma’lumotlar (big data) ahamiyat kasb etgan.[63] Katta ma’lumotlarni to’plash va ulardan foydalanishni shaxsiy ma’lumotlar qoidalariga muvofiq qilish uchun echimlar taxalluslash va statistik maqsadlarda ma’lumotlarni qayta ishlashdan istisno qilish bo’lishi mumkin.[64] Biroq, shaxsiy ma’lumotlar bilan asl manbaga qaytish imkonini beruvchi texnologiyaning yuqori hisoblash quvvati bilan anonim ma’lumotlarni qayta identifikatsiya qilish imkoniyati bilan bo’gliq muammo mavjud. Buni ma’lumotlar sub’ktlari uchun ma’lumotlardan foydalanishda yuqoriroq shaffoflik o’rnatish orqali hal qilish mumkin.[65]

Katta ma’lumotlarga asoslangan yaratilgan mahsulotlarga egalik huquqi odatda muallif yoki ijodkorga tegishli bo’lgan intellektual mulk qoidalari bilan tartibga solinadi. Ochiq ma’lumotlar mahsulotiga xususiy mulk olishga ruxsat berish va rag’batlantirish ochiq ma’lumotlarga investitsiya kiritishdan qaytarishga olib kelishi mumkin.[66] Qonuniy huquqlarni himoya qilish ushbu sohadagi texnologik tadqiqotlar va innovatsiyalarga to’sqinlik qilmasligi kerak.[67] Shu sababli, ko’plab domenlardan va bir nechta huquqlar bilan kesishgan holda katta ma’lumotlarni yaratishni hisobga

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[59] Jean Nicolas Druey, Information Cannot be Owned Research Publication No. 2004-05 4/2004, at para 20 <https://cyber.harvard.edu/wg_home/uploads/339/Druey.pdf>).

[60] Open Data White Paper: Unleashing the Potential, HM Government, Presented to Parliament by the Minister of State for the Cabinet Office and Paymaster General, June 2013, p.5.

[61] (Opendatacharter.net).

[62] Alexandra Giannopoulou, Understanding Open Data Regulation: Analysis of the Licensing Landscape, in B. van Loenen at al. (eds.), Open Data Exposed, Information Technology Law Series 30 p.2.

[63] Pagallo, Ugo. (2017). The Legal Challenges of Big Data:. European Data Protection Law Review. 3. 36-46. 10.21552/edpl/2017/1/7. p.1.

[64] Pagallo, Ugo. (2017). The Legal Challenges of Big Data:. European Data Protection Law Review. 3. 36-46. 10.21552/edpl/2017/1/7. p.10.

[65] Marina Da Bormida, The Big Data World: Benefits, threats and ethical challenges, Ethical Issues in Covert, Security and Surveillance Research Advances in Research Ethics and Integrity, Volume 8, 2022, 71–91. p.76.

[66] Ruth L. Okediji, Government as Owner of Intellectual Property? Considerations for Public Welfare in the Era of Big Data, VAND. J. ENT. & TECH. L., Vol. 18:2:331, p.331.

[67] Pagallo, Ugo. (2017). The Legal Challenges of Big Data:. European Data Protection Law Review. 3. 36-46. 10.21552/edpl/2017/1/7. p.11.

olgan holda, jamoatchilik manfaatlariga ochiq kirishni ta’minlash uchun uni o’zlashtirishni oldini olish kerak.

Genetik ma'lumotlar o’z-o’zidan nomoddiy ob’ektga aylanib borayotganligi sababli, intellektual mulk undan foydalanishda tobora muhim ahamiyat kasb etmoqda, chunki yuqori darajadagi huquqiy va texnologik murakkablik va genetik ma’lumotlarga asoslangan ko’plab innovatsiyalar mavjud.[68] Genetik ma’lumotlarning tabiati shaxsiy hayotning individual tushunchalarini shubha ostiga qo’yadi va zamonaviy maxfiylikning o’zaro bog’liqligini ko’rsatadi. Inson genomi loyihasi 2003 yil, bu tadqiqotda genomik ma’lumotlarning matnliligiga erishildi, bu erda tafsilotlar darajasi yuqori darajada oshkor bo’lgan noyob individual profil, bu ma’lumotlarni oshkor qilish nafaqat shaxsiy hayotga, balki genetik jihatdan bog’liq bo’lgan boshqa shaxslarning shaxsiy hayotiga ham fundamental xavf tug’dirdi.[69] Bu bog’langan ma’lumotlar sub’ektlarining o’zaro roziligi bilan genomik ma’lumotlarga ishlov berishni talabni talab qiladi.

**Ikkinchi bob**, “**Axborotning intellektual mulk qatori himoyasi**” deb atalgan. Ma’lumki, mualliflik huquqi asosan axborot obyektlarini himoya qilishga qaratilgan va buni uning himoyasiga olgan obyektlari namoyon qilib turadi. Bunday obyektlarning mavjudligi mualliflik huquqi bilan himoyalanmagan ma’lumotlardan — ma’lumotlar bazasi yaratish mumkinligi haqidagi “Kompyuter dasturlarini EHM va ma’lumotlar bazalari uchun huquqiy himoya qilish to‘g‘risida”gi Qonunning 4-moddasi 2-qismida tasdiqlangan.[70] Shuningdek, asarlarni mazmunini chiqarib olishiga qarshi, mazmundan ko‘ra ifoda shakliga qaratilganligi mualliflik huquqini himoya qilish usullari yetarli emasligi ko‘rsatadi.

Bundan tashqari, muayyan turdagi intellektual mulkni himoya qilish cheklovlari uni himoya qilish uchun mo‘ljallangan obyekt maqsadlari bilan belgilanadi. Umuman olganda, intellektual mulk obyektlarining ayrimlari axborotni muhofaza qilishga moslashmagan. Patent huquqi himoya qilish sharti etib ixtiro haqida axborotni e’lon qilish va shu tariqa oshkor etish zaruriyatini o‘rnatadi.[71] Axborot berish xususiyatiga ega bo‘lsa-da, savdo belgisi bo‘yicha munosabatlar axborot bilan foydalanishga mo‘ljallanmagan, balki tovarni kelib chiqishi haqida xabar berishiga qaratilgan. Shuningdek, tovar belgilariga tur sifatida maxfiyligini yoki unga asoslangan holda saqlab olish jihatiga ega emas, chunki u uzatilishga mo‘ljallangan. Shu sababli, tovar belgilariga nisbatan uning maxfiyligini qonun yoki shartnoma asosida saqlab turish huquqiy jihatdan ahamiyatga ega emas.

Shunday qilib, **intellektual mulk obyektga moslashgan va mulk huquqiga qaraganda universal emasdir**. Mulk huquqi qamrovida kengroq bo‘lib

[68] WIPO Intellectual Property Guide for Genetic Resources and Genetic Sequence Data. Integrated intellectual property management for genetic material and genetic sequence data. p.5. https://www.wipo.int/export/sites/www/tk/en/docs/ip_gr_grdataguidefin.pdf p.3

[69] Róisín Á Costello, Genetic Data and the Right to Privacy: Towards a Relational Theory of Privacy? Human Rights LawReview, 2022, 22, 1–23, - p.3

[70] O‘zbekiston Respublikasining 1994-yil 6-maydagi 1060-XII sondagi “Elektron hisoblash mashinalari uchun yaratilgan dasturlar va ma’lumotlar bazalarining huquqiy himoyasi to‘g‘risida”gi qonuni // Oliy Kengash Axborotnomasi // 1994-y., 5-son. 136-modda.

[71] O’zbekiston Respublikasining “Ixtirolar, foydali modellar va sanoat namunalari to’g’risida”gi 6-mart 1994 yildagi qonuni 29.08.2002-yil 397-II-sonli taxririda // O”zbekiston Respublikasi Oliy Majlisining Axborotnomasi, 2002-yil, № 9, 158-moddasida.

hisoblanadi, lekin u, huquqning jismoniy obyektlari namoyon bo‘ladigan ashyolarga yo‘naltirganligi bilan bog‘liq konseptual anglashilmovchilikka ega. Shu munosabat bilan, fuqarolik huquqida, tijorat qiymatiga ega bo‘lgan va intellektual mulk standartlariga qat’iy mos kelmaydigan, kengroq doiradagi axborot obyektlari himoya qilish zarurati mavjud.

Intellektual mulk ijtimoiy manfaatlar bilan, uning obyektlarini ijtimoiy mulkiga davriy o‘tishi bilan muvozanatlashtiradi. Biroq, axborotga nisbatan mulk kvazi-huquqi uning, agarda axborot qonuniy ravishda olingan bo‘lsa, ko‘plab shaxslar, shu axborotga bo‘lgan huquqini o‘rnatuvchi, mutlaq emaslik tabiati bilan muvozanatlantirilishi mumkin. Axborotning dastlabki va keyingi egasi o‘rtasidagi munosabatlarda dastlabki mulkdorning huquqi ustunligi muqarrardir, bu boshlang‘ich huquq keyingi foydalanuvchilarning hosila huquqlariga nisbatan mutlaqdir. Shunda, bir xil darajadagi keyingi mulk egalari o‘rtasidagi munosabatlarda, ***kvazi-mutlaq*** yoki kuchsizlantirilgan mutlaq huquqlar o‘zgalardan ustun bo‘lmaslik bilan, axborotga ega bo‘lish imkonini beradi, mutlaq emas balki ***nisbiy huquq asosida***.

Intellektual mulk huquqi litsenziya shartnomasining cheklovlari bilan axborotni keyinchalik tarqatish muammosini hal qiladi. Biroq, litsenziya shartnomasi mavjud bo‘lmaganda, axborot huquqining ilg‘or amaliyoti, moddiy axborot vositalarida (elektron shaklda bo‘lmagan), “tugab bitish” yoki “birinchi sotish doktrinasi”ni qo‘llanilishini an’anaviy mualliflik huquqi obyektlari bilan cheklash hisoblanadi.[72] Bu foydalanuvchining internetda axborot tarqatishini oldindan noqonuniy deb topishni imkonini beradi. Birinchi sotish doktrinasining analogiyasi “Mualliflik huquqi va turdosh huquqlar” to‘g‘risidagi O‘zbekiston Respublikasi qonunining 25-moddasida”, va “Kompyuter dasturlari va ma’lumotlar bazalari” to‘g‘risidagi O‘zbekiston Respublikasi Qonunining 13-moddasida,[73] bunday qayta sotishga yo‘l qo‘yiladi. Biroq elektron shakldagi axborot obyektlari uchun bu internet qaroqchiligiga yo‘l ochishi mumkin. Buning oldini olish uchun xalqaro huquqiy amaliyotga muvofiq, birinchi sotish huquqi elektron mualliflik huquqi obyektlariga nisbatan cheklashni talab qiladi.

**Dissertatsiyani uchinchi bobi, generativ dasturiy ta’minot yordamida va shu bilan birga sun’iy intellekt orqali hosil bo‘lgan obyektlarga egalik qilish** muammosini tadqiq etishga qaratilgan. Generativ dasturiy ta’minot va sun’iy intellekt davrida, insonning muhim ishtirokisiz avtonom ravishda kompyuter tomonidan hosil qilgan asarlar soni ortib bormoqda. “Mualliflik huquqi va turdosh huquqlar to‘g‘risida”gi Qonunning 8-moddasida, xususan, shaxsning individual asar yaratishga qaratilgan ijodiy faoliyatini amalga oshirmasdan, muayyan turdagi ishlab chiqarishga mo‘ljallangan texnik vositalar bilan olingan natijalar mualliflik huquqi

[72] Clark D. Asay, Kirtsaeng and the First-Sale Doctrine’s Digital Problem, 66 Stanford Law Review 17

[73] O’zbekiston Respublikasining 1994-yil 6-maydagi 1060-XII son “Elektron hisoblash mashinalari uchun yaratilgan dasturlar va ma’lumotlar bazalarining huquqiy himoyasi to’g’risida”gi qonuni // Oliy Kengash Axborotnomasi // 1994-y., 5-son, 136 modda.

bilan himoya qilinmaydi.[74] Biroq, generativ dasturiy ta’minot yaratgan jarayoni kompyuter texnik vosita sifatida foydalangan vaziyatdan farq qiladi.

Kompyuter-hosil qilgan (CGW) ishlari uchun himoya mavjud emasligi ularni tez ravishda ommaviy axborotga aylantiradi.[75] Bu esa, ichki axborot sohasining rivojlanishiga to‘sqinlik qilgan holda, mualliflar kompyuter texnologiyalaridan foydalanishni demotivatsiya qilishga qodir. Bu muammoni ingliz huquqi tajribasi asosida CGWga zarur tayyorgarlik qilgan, va ilg‘or tadqiqotlar asosida CGW generatsiya jarayoni ustidan nazoratga ega bo‘lgan shaxsga mualliflik tayinlash orqali yechsa bo‘ladi.[76] Bu qonundagi bo‘shliq muammosini hal qilishga imkoniyat yaratadi va mualliflik huquqiga ega bo‘lmagan asarlarning paydo bo‘lishiga va ularning uchinchi shaxslar mulkiga aylanishiga yo‘l qo‘ymaydi.

**To‘rtinchi bob** “**Onlayn axborot vositalarini tartibga solish**” borasida, axborot vositachisining raqamli huquqlarni boshqarish va javobgarlik masalalari ko‘rib chiqadi. Internetdagi axborot internet xizmati ko‘rsatuvchi axborot vositachilari orqali va yuqori darajada YouTube, Vimeo, Dailymotion kabi axborot kontentini almashinuv platformalari orqali uzatiladi. Axborot oqimlari markazidagi o‘z mavqeyiga ega bo‘lib, ular axborot va mualliflik huquqi obyektlarini himoya qilgan holda, “geytkiper” vazifasini o‘tashi mumkin. Biroq, axborot vositachilari tomonidan axborot himoyasini ta’minlash uchun O’zbekiston Respublikasining “Elektron tijorat” to‘g‘risidagi qonunda vositachilik mas’uliyatini aniq belgilash zarur.[77] Amaldagi qonunda elektron tijorat operatorlarining (12-modda) va elektron savdo maydonchasi operatorining (13-modda) huquq va majburiyatlari keltirilgan, va axborotga nisbatan vositachilik javobgarligi tartibga solinmagan.[78] Bu Yevropa Ittifoqi huquqining “mere conduit”,[79] yoki AQSh huquqining “safe harbour” doktrinalari modelida amalga oshirilishi mumkin.[80] Ushbu standartlar axborot vositachilarining uzatilayotgan axborot tarkibining monitoringi yoki mo‘tadil ya’ni moderatsiyasini olib bormasa va bu faoliyatdan foyda olmasa, javobgarlikdan ozod etilishi nazarda tutilgan. Shu bilan birga, axborot vositachilarining bu kabi huquqbuzarliklarga nisbatan harakatsizligining oldini olish uchun mas’ul shaxsga ma’lum bo‘lib qolgan huquqbuzarlikka nisbatan chora ko‘rishga ixtiyordan e’tibor qaratmasligi uchun javobgarlikni nazarda tutuvchi ***“irodali inobatga olmaslik” to‘g‘risidagi doktrinasi***ni qo‘llash lozim.

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[74] O‘zbekiston Respublikasining 2006-yil 20-iyulda qabul qilingan “Mualliflik huquqi va turdosh huquqlar to‘g‘risida”gi O‘RQ-42-son Qonuni // O‘zbekiston Respublikasi Oliy Majlisining Axborotnomasi, 2006-yil, 28-29-son, 260-modda, 25 moddasi.

[75] Wendy J. Gordon, ’On Owning Information: Intellectual Property and Restitutionary Impulse’ (1992) 78 Va. L. Rev. 179

[76] UK Copyrights, Designs and Patents Act 1988, s 9(3).

[77] O’zbekiston Respublikasining “Elektron hujjat aylanishi” tug’risidagi qonuni, 5 moddasi // O’zbekiston Respublikasi qonun hujjatlari to’plami, 2004-yil 20-son, 230-modda.

[78] O’zbekiston Respublikasining “Elektron tijorat to’g’risida”gi 2004-yil 29-aprel 613-II-sonli Qonuni, (yangi tahrir 2015-yil 22-maydagi O’RQ-385-sonli Qonuniga muvofiq. O’zbekiston Respublikasi qonun hujjatlari to’plami, 2004-y., 20 — son, 132-modda.

[79] Article 11 of the Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (’Directive on electronic commerce) OJ 2000 L 178, p.1

[80] Digital Millennium Copyright Act Library of Congress. 1998. The Digital Millennium Copyright Act of 1998: U.S. Copyright Office summary. [Washington, D.C.]: [Copyright Office, Library of Congress].

O‘zbekiston Respublikasi Fuqarolik kodeksining 365-moddasida axborot almashinuvi yo‘li bilan shartnoma tuzishga nisbatan shartnoma oferta aksept olgan paytda tuzilgan hisoblanadi.[81] Biroq, aloqa tarmoqlari orqali amalga oshirilganda, bir lahzalik aloqa vositalaridan foydalanish tufayli, accept qilishni aniqlashning boshqa tamoyili qo‘llanilishi kerak.[82] Buning sababi, qoida tariqasida, akseptni jo‘natishda uni qabul qilish bir zumda sodir bo‘ladi. Bu bitimni tuzish vaqtini accept qiluvchining axborot tizimida (serverida) qabul qilinganligi to‘g‘risidagi xabarni olish vaqti bilan bog‘lashni talab qiladi. Ushbu yondashuvning maqsadga muvofiqligi Yevropa Ittifoqining “Elektron tijorat to‘g‘risida” direktivasi,[83] va huquqiy amaliyot bilan tasdiqlangan.[84] 4-bob. O’zbekiston Respublikasining “Elektron tijorat” to‘g‘risidagi qonunining 4-bobida “elektron tijoratda shartnomalar tuzish tartibi” (14-21-moddalar) bunday bu masala xal etilmagan.[85]

Ushbu yondashuv iste’molchining manfaatlarini ko‘plab tranzaksiyalarga xizmat qiluvchi elektron do‘konlar oldida himoya qiladi va ular shartnomani o‘zlari bajarishga tayyor bo‘lgunga qadar qabul qilishni qasddan e’tiborsiz qoldirish amaliyotiga ega. Sud holatida, shartnoma tuzilgan deb tan olinishi uchun qabul qilish faktini aniqlash kerak, chunki xabar bilan tanishishni tasdiqlash qiyinchilik tug‘diradi. Shunday qilib, xabarlarni tekshirish majburiyati iste’molchilar manfaatlarini himoya qilish maqsadga elektron tijoratchiga tegishli bo‘ladi. Axborot masalasiga nisbatan, buning muhim jihati, xabarni jo‘natish vaqtida qabul qilish shartnomani tuzish va bajarish jarayonini uyg‘unlashtirishga va avtomatlashtirishga yordam beradi, bu ayniqsa aloqa tarmoqlari orqali uzatiladigan axborot obyektlariga nisbatan qo‘llaniladi.

## XULOSA

Axborotning fuqarolik huquqiy maqomini belgilashda va axborotning fuqarolik muomalasini tartibga solish mexanizmini takomillashtirish muammolarini tahlili asosida quyidagi tavsiya va yechimlar taklif etiladi:

### I. Fuqarolik huquqini ilmiy-nazariy asoslariga asoslashga oid xulosalar:

1. Fuqaroviy huquq obyektlarini aniqlashda keng yondashuvini inobatga olib, va fuqaroviy huquqni dispozitiv metodiga asoslanib, ommaviy axborotdan ajralgan va uni egalik qilishda yoki almashinuvida cheklanmagan axborotni fuqarolik huquqi obyekti sifatida kiritish taklif etiladi. Axborotni tarmoqlar orqali uzatilishini inobatga olib, u ko‘char mulk bo‘lib, unga huquqlar ommaviy ma’lumotni yig‘ish yoki shartnoma asosida xarid qilish orqali qo‘lga kiritilishi mumkin. Yakuniy mezon

[81] Civil Code of the Republic of Uzbekistan, December 21, 1995, Journal of the Oliy Majlis, 1996, No. 2, 1997. Page 56, Appendix No. 2, Article 189.
[82] *Brinkibon Ltd v Stahag Stahl* [1983] 2 AC 34
[83] Article 11 of the Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (’Directive on electronic commerce) OJ 2000 L 178, p.1
[84] *Entores v Miles Far East Corp* [1955] 2 QB 32
[85] O’zbekiston Respublikasining “Elektron tijorat to’g’risida”gi 2004-yil 29-aprel 613-II-sonli Qonuni, (yangi tahrir 2015-yil 22-maydagi O’RQ-385-sonli Qonuniga muvofiq. O’zbekiston Respublikasi qonun hujjatlari to’plami, 2004-y., 20 — son, 132-modda.

axborotning fuqaroviy huquqiy turdagi ekanligini ta’minlaydi. Bu yondashuv fuqaroviy huquq obyektlarini umumiy xususiyatlaridan kelib chiqib maxsus axborot rejimlarini cheklovlarini, misol uchun axborot resurs va sistemalar (jamlangan), EXM uchun programmalar (operatsiya bajargani), ma’lumot bazalari (kompilyatsiya), va mualliflik huquqini (shakl va hajm) inobatga olgan holda taklif etiladi, va uni qoidalarga shu obyektlarini ham qamrab olishi mumkin deb topiladi.

2. Ilk mulkdorning xususiy-huquqiy axborotga, to‘liq huquqlarini mavjudligini hisobga olgan holda axborotga mulk huquqini tan olish. Keyinki axborotga *INS v Associated Press* qarori asosida, kvazi-mulk huquqini tan olish. Lokk nazariyasi asosida sarflangan mehnat va paydo bo‘lgan axborot obyektlari keyslar asosida sarflangan xarajat va investitsiya virtual koinotda elektron axborotga egalik huquqini beruvchi mezon sifatida qo‘llash.

3. Axborot tahrirlangan bo‘lsa ham himoya qilinishi beruvchi, shakli bo‘yicha emas (mualliflik huquqi kabi), balki mazmuni bo‘yicha bo‘lgan axborot kontenti ta’rifini berish taklif etiladi. O‘zbekiston Respublikasining “Axborotlashtirish to‘g‘risida”gi qonunida axborot kontentini ta’rifini “uning mazmuni va bunday axborotdan foydalanish yoki uning ekvivalenti bo‘yicha uzatishga mo‘ljallangan axborot” deb ta’rif berish taklif etiladi. Bundan tashqari bu originalligi yetarli bo‘lmagan axborot obyektlarni himoya qilishga imkon yaratadi, masalan media epizodlar, veb-sayt kontenti va hokazo;

4. Axborotning asl va keyingi egasi huquqlarini asl mulkdorga mulk huquqi, keyingi egalik qiluvchilarga esa faqat foydalanish huquqini berish orqali farqlash taklif etiladi (agar obyektga nisbatan huquq butunlay o‘tkazib berilmasa, yoki shartnomada boshqacha shart nazarda tutilmagan bo‘lmasa);

5. Litsenziya shartnomasini asl va keyingi axborot egasining huquqlarini farqlash imkonini beruvchi axborotni uzatishning asosiy usuli sifatida qabul qilish, garchi oldi-sotdi shartnomasi keyingi egasiga asl egasi bilan bir xil huquqlarni beradi, va bu uning foydalanuvchilari tomonidan axborotni ruxsatsiz tarqatishga olib kelishi mumkin;

6. Axborotning mutlaq maxfiylikdan ko‘ra, nisbiy maxfiylik asosida muhofaza qilishga imkon beradigan ingliz “ishonch huquqi” modeliga binoan, maxfiylikni (kontekstga yo‘naltirilgan himoya) nazarda tutilgan holatlarda uzatiladigan axborot himoyalanishi kerak bo‘lgan taqdirda, axborot uzatish kontekstiga asoslangan maxfiylik, “ishonch huquqi” modeli bo‘yicha olingan axborotga huquq paydo bo‘lishi uchun asos sifatida tan olinishi taklif etiladi. Fuqarolik huquqida himoyalangan axborotga nisbatan bunday moslashuvchan yondashuv O‘zbekiston Respublikasida axborot produktlarini yaratishga qaratilgan tadbirkorlik rivojiga ijobiy ta’sir ko‘rsatishi mumkin. Bunga dasturiy ta’minot, ma’lumotlar bazalari va shu kabi o‘z huquqiy asoslariga ega bo‘lgan maxsus axborot turlarining huquqiy rejimlarini cheklanganligini inobatga olgan holda zarur bo‘lib turadi. Himoyalangan axborotni ochiq savdoda ishlatishdagi cheklovlari tufayli va “muqarrar ravishda oshkor etilishi” haqidagi doktrinasini inobatga olgan holda, axborotni mutlaqo tijorat siri rejimi bilan cheklanmasdan himoya qilish taklif etiladi;

7. Fuqarolik huquqida “tovar”ning umumiy ta’rifini berish orqali axborotning fuqarolik muomalasini ta’minlash taklif etiladi. Yevropa Ittifoqi qonunining modeliga ko‘ra tovar qiymatda baholanishi va tijorat bitimining predmeti bo‘la olishi standartlari asosida ta’riflanadi. Fuqarolik huquqining fuqaroviy huquq obyekti kategoriyasini tovar ta’rifi bilan almashtirish taklif etiladi, aniq standartlarini asosida, va bu har bir fuqarolik huquqi obyektini uning tizimidagi tartibiga solish zaruriyatini bartaraf etishi mumkin;

8. Internet tarmog‘ida foydalanuvchilar tomonidan veb-saytlarni ko‘rish jarayonida, ko‘rilayotgan axborot nusxasi avtomatik ravishda foydalanuvchining axborot tizimiga yuklanib olinishini ko‘paytirish hisoblangani uchun, buni huquqbuzarlik deb ta’riflashini oldini olish maqsadida, bunga xos istisno kiritish lozim. Bu Yevropa huquqini Information society direktivasini 5-moddasi standarti bo‘yicha kiritish taklif etiladi, ya’ni “ko‘paytirish vositachi orqali amalga oshirilib vaqtinchalik va o‘tkinchilik bo‘lib, jarayonning ajralmas qismi bo‘lib hisoblanganda, va bu jarayon alohida iqtisodiy ahamiyatiga ega bo‘lmaganda huquqbuzarlikdan istisno bo‘lib hisoblanadi”. Bu hamda axborot servislarga axborot bilan ishlov litsenziyasiga qo‘shimcha foydalanuvchi litsenziyasini olish zaruriyatini bekor qiladi (axborot agregatori *Infopaq* haqidagi keys);

9. Mualliflik huquqi predmeti bo‘lgan axborotni Internet orqali elektron shaklda keyinchalik uzatish muammosini, huquqni “tugab bitish” (yoki “birinchi sotish” doktrinasi) kitoblar, DVD kabi moddiy axborot vositalari bo‘lgan an’anaviy obyektlar bilan cheklash yo‘li orqali taklif etiladi. Bu mualliflik huquq egalarining huquqlarini himoya qilishni kengaytirish va internetda elektron axborotni ruxsatsiz tarqatishni oldindan noqonuniy deb topishni ta’minlaydi;

10. Axborot almashinuvi markazida "gatekeeper" tarzida faoliyat yuritib kelayotgan axborot vositachilarini javobgarligini xalqaro standarti taklif etiladi. Yevropa Ittifokini huquqini “*Mere Conduit”* himoyasi va AQSh “*Safe Harbor”* doktrinasi axborot vositachilarining javobgarlik doirasini aniqroq belgilashga imkon beradi va foydalanuvchi tomonidan sodir etgan huquqbuzarlik uchun vositachining javobgarligini oldindan tahmin qilishga imkoniyat yaratadi;

11. “Irodali inobatga olmaslik” doktrinasining (Willful Blindness doctrine) joriy etilishi axborot vositachilarini mualliflik huquqi obyektlari va axborot kontentini onlayn kontent almashinuv tarmoqlarida ruxsatsiz joylashtirishlarni hal qilishga undaydi. Bu doktrinaga ko‘ra, taraf huquqbuzarlik haqida bilgan yoki bilishi lozim bo‘lgan va uni oldini olish yoki to‘xtatish uchun kerakli chora ko‘rmagan holda javobgar hisoblanadi.

12. Kontent oqimi bilan onlayn video almashinuv tarmoqlarining iqtisodiy modellari, axborotni yopiq foydalanishdan ko‘ra ochiq foydalanishga ustuvor ahamiyat beradi deb topiladi, va nusxa ko‘chirish, yuklab olish va ruxsatsiz yuklashdan texnologik himoya bilan himoyalanish usulini o‘zgartiradi. Biroq, texnologik himoyaga ega onlayn video almashinuv tarmoqlar mualliflik huquqi istisnolarini e’tiborsiz qoldiradi. YouTube tomonidan nizolarni muqobil hal qilish, foydalanuvchi hissasini e’tiborsiz qoldirib, foydani o‘tkazib yuborish usulini

huquqqa muvofiqlashtirilishi lozim deb topiladi;

13. Ingliz huquqi yondashuviga koʻra, mualliflik huquqi nuqtayi nazaridan kompyuter yaratgan asarlarga (CGW) egalik qilish masalasini hal qilish mexanizmi taklif etiladi. Bu CGW generatsiyasiga zarur tayyorgarlik koʻrgan va jarayoni ustidan nazoratga ega boʻlgan shaxsga mualliflik tayinlash orqali erishiladi. Bu yondashuv qonundagi boʻshligini bartaraf etadi, ushbu obyektlarga inson qoʻshgan hissaga kerakli ahamiyat beradi, va mualliflik huquqiga ega boʻlmagan asarlarning paydo boʻlishiga va ularning uchinchi shaxslar tomonidan oʻz mulkiga aylantirishiga toʻsqinlik qiladi;

14. Katta maʼlumotlar (big data) hech kimning mulkiga aylantirilmasligi kerak boʻlgan cheklanmagan miqdordagi shaxslarga (mulkiy axborotning antitezasi) tegishli umumiy maʼlumotni ifodalaydi va u bilan har bir inson foydalanishga haqli boʻlishi kerakligini belgilandi. Katta maʼlumotlarning (big data) depersonalizatsiyasi hamda jamoaviy mulkchilikni oʻrnatishga ham imkon bermaydi va ularning integratsiya boʻlgan holati tufayli ayrim shaxslarning huquqlarini boshqalardan ajratib koʻrsatishga imkon bermaydi deb belgilandi.

15. Axborot yoki axborot produktini oshkor qiluvchini aniqlash imkonini beruvchi, uzatiladigan axborot produktlari reyestrini yuritish bilan axborotni bosqichma-bosqich yangilash orqali himoya qilish usuli taklif etiladi. Litsenziya shartnomasida ushbu imkoniyatni axborot foydalanuvchiga bildirish uning ruxsatisiz tarqatilishini oldini olish imkonini beradi. Mazkur usul axborot produktini oshkor qilgan shaxsni aniqlash imkoniyati orqali axborotni huquq egasini ruxsatisiz tarqatishini oldini olish imkonini berishi mumkin;

16. Internet tarmogʻidagi ochiq maʼlumotlar bilan muomalalar ular egasiga bevosita emas, balki bilvosita foyda olib kelishi taqdirda fuqaroviy huquqiy muomalalar sifatida qaralishi kerak va bu ochiq maʼlumotlarning sifatini va aktuallikligini saqlashga olib keladi

## II. Qonunchilikni takomillashtirishga oid takliflar:

17. Oʻzbekiston Respublikasi Fuqarolik kodeksining 8-bobidagi, axborot haqidagi 98 moddasini kiritish va tijorat siri fuqarolik axborot turi ekanligi sababli, mavjud 98 “tijorat siri” moddasini keyingi moddaga tartib bilan koʻchirib, Oʻzbekiston Respublikasi fuqarolik kodeksining “axborot” etib atalgan 98-moddasini kiritish taklif etiladi. Bu moddani quyidagi shaklda belgilash taklif etiladi: “ommaviy axborotdan ajratilgan, va egalik qilishda va almashinuvda cheklanmagan axborot, va uning egasi bunday axborotga nisbatan mehnat yoki sarmoya kiritsa fuqaroviy huquq obyekti boʻlib hisoblanadi. Ushbu axborot qonuniy ravishda foydalanish huquqiga ega boʻlmagan uchinchi shaxs tomonidan foydalanishidan himoyalanadi”;

18. Vositachi axborot tizimlari avtomatik ravishda axborot koʻpaytirishini amalga oshirganda huquqbuzarlikdan istisno deb taʼriflashini uchun qoida kiritish lozim. Oʻzbekiston respublikasi “Elektron Tijorat toʻgʻrisida”gi

qonunini 12-2 qo‘shimcha modda kiritib “Vaqtincha ko‘paytirish” deb atab, ko‘yidagicha ifodalash lozim “Vositachi axborot tizimi ko‘paytirish amalga oshirganda, va bu vaqtinchalik va o‘tkinchilik bo‘lib, jarayonni ajralmas qismi bo‘lib hisoblanganda, va bu jarayon alohida iqtisodiy ahamiyatga ega bo‘lmaganda, bunday axborotni egasi ruxsatisiz ishlash huquqbuzarlikdan istisno bo‘lib hisoblanadi”;

19. O‘zbekiston Respublikasining Axborotlashtirish» to‘g‘risidagi qonunining 9-moddasida mavjud bo‘lgan axborot resurslari va tizimlari kabi qonunlarning jamlangan obyektlari tomonidan axborot obyektlarini muhofaza qilish bo‘yicha cheklovlarni bartaraf etadigan axborot mahsulot bo‘lgan huquqni tiklash tavsiya etiladi;

20. O‘zbekiston Respublikasi fuqarolik kodeksining 366-moddasiga shartnoma tuzilgan payti haqida uchinchi qismni quyidagi tahrirda shakllantirish taklif etiladi “Axborot-kommunikatsiya tizimlari orqali tuzilgan bitim qabul qiluvchining axborot tizimida bitim tuzish taklifini qabul qilish va ko‘rish uchun mavjud bo‘lgan vaqtda tuzilgan deb hisoblanadi”. Bunday holda, axborot aloqa tarmogi orqali uzatilishi mumkin va akseptni qabul qilish, tovarni yuborish bilan sinxronlik o‘rnatish taqdirida, blokcheyn texnologiyasi asosida smart kontrakt orqali jarayonni avtomatlashtirish imkonini beradi;

21. Mualliflik huquqi predmeti bo‘lgan axborotni keyinchalik uzatishni kitoblar, DVD kabi moddiy axborot vositalari bo‘lgan an’anaviy obyektlar bilan cheklangan huquqni tugab bitishi (birinchi sotish doktrinasi) yo‘li orqali hal etish taklif etiladi. Bu mualliflik huquq egalarining huquqlarini himoya qilishni kengaytirish va internetda elektron axborotni ruxsatsiz tarqatishni oldindan noqonuniy deb tan olinishini ta’minlaydi. Bunday havola O‘zbekiston Respublikasining “Mualliflik huquqi va turdosh huquqlar» to‘g‘risida”gi qonunning 8-moddasida, va O‘zbekiston Respublikasining “Kompyuter dasturlari va ma’lumotlar bazalarini huquqiy himoya qilish to‘g‘risida”gi qonunning 4-moddasida 2-qismida ko‘rsatilishi lozim;

22. Axborot vositachilik javobgarlik modelini ko‘yidagicha belgilash “axborot vositachi huquqbuzarlik haqida xabardor bo‘lmasa, mo‘tadil etmasa, va uchinchi shaxsning huquqlarini buzadigan axborot mazmunini nazorat qilmasa va ushbu faoliyatdan foyda olmasa, axborot vositachi javobgarligidan ozod etiladi” shakldagi moddani O‘zbekiston Respublikasi “Elektron tijorat” to‘g‘risidagi qonunining 13-moddasiga kiritilishi kerak. Bunday tahrir vositachilik javobgarlik bo‘yicha yetakchi standartga mos kelib, “Elektron tijorat” to‘g‘risida Yevropa direktivasi va AQSHni “Raqamli ming yillik mualliflik huquqi” to‘g‘risida qonunini “xavfsiz makoni” doktrinasiga to‘g‘ri keladi;

23. “Irodali inobatga olmaslik” doktrinasining (Willful Blindness doctrine) joriy etilishi uchun, tavsiya etilgan moddaning ikkinchi qismi “mualliflik huquqi egasi yoki uchinchi shaxs tomonidan buzilganligi aniqlanganda, yoki xabardor qilinganida huquqbuzarlikning oldini olish uchun chora ko‘rmagan axborot vositachisi O‘zbekiston Respublikasi «Elektron tijorat” to‘g‘risidagi qonunining

ushbu moddaning birinchi qismida taqdim etilgan vositachilik himoyasidan mahrum bo‘ladi. Qoidadagi shaxs “ma’lum bo‘lishi kerak bo‘lgan” holda qo‘shimcha, huquq buzilishi ochiq-oydin bo‘lgan hollarda va vositachi ataylab ularni bartaraf etmaslik uchun javobgarligini yuzaga keltiradi va xalqaro tan olingan obyektiv standartiga mos keladi;

24. O‘zbekiston Respublikasining “Mualliflik huquqi va turdosh huquqlar to‘g‘risidagi” qonunining 10-moddasiga, “mualliflik huquqi obyekti kompyuter dasturi yordamida yaratilgan bo‘lsa, muallif asar yaratish uchun zarur chora-tadbirlar ko‘rgan va ularning yaratilishi ustidan nazorat qilgan shaxs hisoblanadi” degan tahrirda qo‘shimcha kiritish taklif etiladi. Ushbu tahrirda O‘zbekiston Respublikasining “mualliflik huquqi va turdosh huquqlar” to‘g‘risidagi qonunining mualliflik huquqi bilan bog‘liq 10-moddasiga qo‘shimcha kiritish taklif etiladi. Mualliflik huquqi va turdosh huquqlar to‘g‘risida qonunining 8-moddaning (“Mualliflik huquqi obyektlari hisoblanmaydigan materiallar”) 6-qismi qo‘yidagicha berilgan: “Insonning bevosita individual asar yaratishga qaratilgan ijodiy faoliyati amalga oshirilmasdan, muayyan turdagi ishlab chiqarish uchun mo‘ljallangan texnika vositalari yordamida olingan natijalar” kompyuter vosita sifatida ko‘rilganligi uchun, taklif etilgan qoidaga zid kelmaydi;

25. Ta’riflash maqsadida katta ma’lumotlar (big data) tendensiyalarni va birlashmalarini, ayniqsa inson faoliyati va o‘zaro aloqalari bilan bog‘liqligini aniqlash uchun hisoblashda tahlil qilinishi mumkin bo‘lgan ma’lumotlar majmuasi sifatida belgilash taklif etiladi. Katta ma’lumotlar (big data) ta’rifini “Axborotlashtirish to‘g‘risida”gi O‘zbekiston Respublikasi Qonunining 3-moddasiga (ta’riflar haqida) kiritishni taklif etiladi. Ko‘p foydalanuvchilar doirasiga tegishli qurilmalardan katta ma’lumotlar to‘planganligi tufayli ularni belgilangan ma’lumotlarning xususiylashtirishga yo‘l qo‘yilmaslik kerak. O‘zbekiston Respublikasining “Axborotlashtirish” to‘g‘risidagi qonunida foydalanuvchilarning qurilmalaridan olingan katta ma’lumotlarni mulkchilikka aylantirish mumkin emasligini belgilash lozim. Mazkur moddaning ikkinchi qismida shaxsiy ma’lumotlar, shu jumladan ularni shaxsini aniqlash imkonini beruvchi shaxslar to‘g‘risidagi ma’lumotlar “Shaxsiy ma’lumotlar to‘g‘risida”gi O‘zbekiston Respublikasining 2019-yil 2-iyuldagi Qonunida belgilangan talablar asosida tartibga solinishi lozimligi qayd etilgan;

26. Ochiq ma’lumotlar sohasi indikatorlarda asoslanishi kerak va ularni e’lon qilish natijalari bo‘yicha muntazam monitoring olib borilib, ma’lumot sifati va talabi monitoringi sifatida talab qilingan ma’lumotlar jamiyat uchun eng katta qiziqish va ahamiyatga ega bo‘lgan axborotni tushunish kerak. Ushbu taklifl O‘zbekiston Respublikasining ochiq ma’lumotlar sohasini yanada rivojlantirish chora-tadbirlari to‘g‘risida” 2020-yil 23-dekabrdagi 808-son qarori bilan tasdiqlangan, 2021-2025-yillarda O‘zbekiston Respublikasida ochiq ma’lumotlar sohasini rivojlantirish konsepsiyasiga taklif etilgan va unda o‘z aksini topgan;

27. Ochiq ma’lumotlar bo‘yicha hamjamiyatni shakllantirish va internet jahon axborot tarmog‘ida faoliyat yuritayotgan dasturiy mahsulotlar va xizmatlar bozorini

yaratish va takomillashtirishga yordam beradi. Ushbu taklifl O‘zbekiston Respublikasining ochiq ma’lumotlar sohasini yanada rivojlantirish chora-tadbirlari to‘g‘risida” 2020-yil 23-dekabrdagi 808-son qarori bilan tasdiqlangan, 2021-2025-yillarda O‘zbekiston Respublikasida ochiq ma’lumotlar sohasini rivojlantirish konsepsiyasiga taklif etilgan va unda o‘z aksini topgan;

28. Shaxsiy ma’lumotlar bilan ishlash tartibiga muvofiq, shaxsiy ma’lumotlarni o‘z ichiga olishi mumkin bo‘lgan “genom ma’lumot” sifatida huquqiy tartibga solish predmetiga aylangan yangi ma’lumotlar egasining roziligi bilan yig’ilishi va uning xavfsizligini ta’minlovchi shart bo‘yicha ishlov berilishi kerak. Ushbu takliflar O‘zbekiston Respublikasining 2020-yil 24-noyabrdagi “Genom bo‘yicha davlat ro‘yxatga olish to‘g‘risida”gi №O‘RQ-649-sonli Qonunining 23-moddasida o‘z aksini topgan.

**SCIENTIFIC COUNCIL No DSc.07/30.12. 2019.Yu.22.01**
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**AT TASHKENT STATE UNIVERSITY OF LAW**

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**TASHKENT STATE UNIVERSITY OF LAW**

**ISMANJANOV AKBAR ANVARJANOVICH**

# CIVIL-LEGAL STATUS OF INFORMATION

12.00.03. – Civil law. Business law. Family law.
International private law

**ABSTRACT**
**of Doctoral (DSc) dissertation for legal sciences**

**Tashkent – 2024**

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The doctoral dissertation is available at the Information Resource Center of Tashkent State University of Law (registered under No.1295), (Address 100047, Amir Temur street, 35. Tashkent city. Phone: (99871) 233-66-36).

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## INTRODUCTION (Doctoral (DSc) dissertation annotation)

**The actuality of the topic and its necessity.** In the world, at the time of dematerialization of trade, information becomes substantial asset to the parties of information exchange and subject of commercial contractual transactions. In international arena, exchange of information required revisiting the legal status of information and defining the relation to other information types. The legal regime of intellectual property rendering the exclusive rights, even if cover majority of information, leaving certain information beyond its regulatory scope, specifically the one related to its content rather than the form, or information having relative degree of confidence and not subject to absolute confidentiality. The universal institution of property rights aimed at guaranteeing ownership to all objects, owing the dynamic nature of information coming into incompliance with absoluteness inherent to the property rights. The mentioned problems, based on law and practice, require the determination of the legal status of general civil law information and the defining its criteria.

If we pay attention to the legal development in the world regarding this problem, the expansion of the competencies to information and transformation of property rights related to relaxation of protective requirements. In its turn it led to the emergence of quasi-absolute rights, and 'trust rights' regimes to protect open information to ensure its civil exchange. Since copyright is limited by form, the category of "information content" was created to protect the content of information. Due to the form of copyright, the category of "information content" was created to protect the content of information. In addition, in relation to private-law relations of digitized information, along with these questions, new types of information, i.e. the legal status of "big data", legal regulation of "computer generated works", intermediary liability in online networks requires clarification, determination of the legal right to copy in browsing, resolution of issues of limiting the "doctrine of exhaustion" to electronic information, and resolution of other relevant legal issues.

The questions raised during the research are of great scholarly and practical significance. The issues of information as property and object of civil exchange have accommodated the central scene of scholarly debate since the mid last century,[1] and does not lose its appeal until today. At the dimension of legal tradition, the topic of civil law exchange of information has gained a principal shift in the official recognition of information as an object of civil law, on the example of the Civil Code of the Russian Federation. At the same time, the topic requires a systematic approach and the development of a general basis for the legal status of information as part of existing legal categories and filling its gaps, as well as defining the mechanisms for ensuring civil information exchange. From a theoretical and legal point of view, the initiative to recognize information as an object of civil rights and property rights was supported by the civil society of the CIS countries, however, considering the opposing debate, it requires the development of its doctrinal base.

The robust information economy considered one of the key indicators of the development of countries and was set as one of the program priorities in the Republic

[1] Marc Uri Porat, The Information Economy, University of Michigan Press (1977) – 556.

of Uzbekistan evident in strategy Digital Uzbekistan - 2030.[2] The focus on informatization evidenced in ever-evolving legislative base in information law. In accordance with the Conception of Development of Electronic Commerce in the Republic of Uzbekistan,[3] adopted or further improving the information legislation reflected in laws of the Republic of Uzbekistan "On Informatization",[4] "On Electronic Document Exchange",[5] "On Electronic Commerce",[6] "On Trade Secrets"[7] and others. On 17 July 2019 two more international conventions of WIPO have taken its effect, providing comprehensive protection to the copyrights as Copyright Treaty for and Performances and Phonograms Treaty dated 20 December 1996. Nevertheless, doctrinal aspects of information as commodity are requiring conceptual clarity and uniformity of approaches.

**The relevance of the topic to priority areas of development of science and technology in the republic:** The topic of research relates to the Decree of the President of the Republic of Uzbekistan dated of January 28, 2022 No. UP-60 "On the Development Strategy of the New Uzbekistan" for the years 2022-2026,[8] to the 89th goal is aimed at "further strengthening the rights of citizens regarding the freedom of receiving and distributing information, and priorities", and within goals and tasks corresponds to the goal Article 324 on the "Development of a single "systematized regulatory legal document regulating the information sphere". Within the mechanisms for its implementation there are: 1. Improvement of legislation in the information sphere based on the contemporary requirements, and 2. Unification of existing laws aimed at regulating the information sphere in the form of the Information code correspond to the intended purpose.[9]

Dissertation work and the concept of improving the civil legislation of the Republic of Uzbekistan II. In the direction of "Improving the main civil legal institutions", it corresponds to the 7th point about "strengthening the institution of material rights by expanding the rights of the owner" and "citizen, which is in high demand in contemporary realities introduction of innovative forms and principles of regulation of legal relations", in particular, legal regulation of collection and processing of significant arrays of anonymous data ("big data"), use of e-commerce, making purchases through electronic platforms corresponds to the IV direction on

[2] The Strategy "Digital Uzbekistan – 2030", annexed to the Decree of the President of the Republic of Uzbekistan dated October 5, 2020 No. PF-6079.

[3] Resolution of the Cabinet of Ministers of the Republic of Uzbekistan "On Approval of the Concern of Development of Electronic Commerce on Republic of Uzbekistan for 2016-2018 // Collection of Legislation of the Republic of Uzbekistan, 2015 г., No. 49, art. 612; 2017 г., № 29, p.693

[4] The Law of the Republic of Uzbekistan "On Informatization" dated 11 December 2003 // Collection of Legislation of the Republic of Uzbekistan, 2014 г., #36, p.452.

[5] The Law of the Republic of Uzbekistan "On Electronic Document Exchange" Article 5. // Collection of Legislation of the Republic of Uzbekistan, 2004, No. 20, Article 230.

[6] The Law of the Republic of Uzbekistan "On Electronic Commerce" dated 29 April 2004 // Collection of Legislation of the Republic of Uzbekistan, 2004 г., No. 20, p.132.

[7] The Law of the Republic of Uzbekistan "On Trade Secrets" dated 11 September 2014 // Collection of Legislation of the Republic of Uzbekistan, 2014, No.37, p.463.

[8] Decree of the President of the Republic of Uzbekistan dated January 28, 2022, No. PF-60 "On the Development Strategy of New Uzbekistan for 2022-2026" // QMMB №06/22/60/0082

[9] Appendix 1 to the Decree of the President of the Republic of Uzbekistan dated April 5, 2019 No. F-5464 "On Measures to Improve the Civil Legislation of the Republic of Uzbekistan" "Concept of Improving the Civil Legislation of the Republic of Uzbekistan".

expanding opportunities.[10] Strengthening the legal basis of information protection and creating a legal basis for the civil circulation of information will help to bring the development of the information sector to a qualitatively new level in Uzbekistan.

**The aim of the research** is to determine the civil law status of information and to determine and harmonize its relationship with special types, as well as to determine the optimal mechanism of its civil exchange, as well as to find legal solutions related to the protection of the interests of the rightsholder of information in online networks.

**The review of foreign scholar research on topic**. The dissertation used the "state of the art" international researches on information regulation, also authored by the following researchers: Anne Branscomp, Andrew Murray, Urs Gasser, Jean Nicholas Drui, Lilian Edwards, Charlotte Vaelde, Gene Wunderligh, Jacqueline Lipton, Marc Uri Porat, Lawrence Lessig, William Kingston, Chris Reed, Pamela Samelson, Herbert Zegh, Ian Lloyd, John Perry Barlow, Trisha Meyer, Diane Rowland, Sallie Spilsburry, Guiseppe Maziotti, and others.[11] The researches on the civil status of information conducted at leading research centers at international universities are traced and researched, including the Center for Internet & Society Stanford Law School, Berkman Klein Center for Internet & Society at Harvard University, Oxford Internet Institute, Center for Intellectual Property and Information Law at the University of Cambridge, Media and Telecommunications Law Institute at Queen Mary University of London, Center for IT & IP Law (CITIP) at KU Leuven, and others.

**The degree of acquaintance with the problem.** Information as an object of civil law were the subject of research by a number of scholars from the CIS countries, and among them it is worth to note Tereshchenko L.K., Gorodov O.A., Gayurov Sh.K., Rassolov M.M., Sitnikov A.L., Tumanova L.V., Dozortsev V.A., Nasonova E.N., Volkov Yu.V., Kovaleva N.N., Kopylov V.A., Kolynets A.A. Vengerov AB, Shestobitov, A.E., Snytnikov, A.A., Sidorova, O.Yu., Gainullina, Z.F., Bogdanov, V.M., Shcherbak, N.V., and others.[12] Leading scholars of

[10] Appendix 1 to the Decree of the President of the Republic of Uzbekistan dated April 5, 2019 No. F-5464 "On Measures to Improve the Civil Legislation of the Republic of Uzbekistan" "Concept of Improving the Civil Legislation of the Republic of Uzbekistan".

[11] Jacqueline D. Lipton, Information Property: Rights and Responsibilities, Florida Law Review, Vol. 56, No. 1, pp. 135-194; Anne W. Branscomp. Who owns the information? BasicBooks. NY, 1994. p. 183; Lawrence Lessig, The future of ideas. Vintage books. NY, 2006. p. 355; Gene Wunderlich, Annuals of the American Academy of Political and Social Science, Property Rights and Information, Vol 412, Issue 1, 1974 p., William Kingston, Beyond Intellectual Property: Matching Information Protection to Innovation, Edward Elgar, 2010 p.256; Herbert Zech, Information as Property, JIPITEC 6 (3) 2015, 192; Pamela Samuelson, Information as Property: Do Ruckelshaus and Carpenter Signal a Changing Direction in Intellectual Property Law? 38 Cath. U. L. Rev. 365 (1989); Andrew Murray, Information Technology Law (OUP 2013) p.53-83, Ian J. Lloyd. Information Technology Law, OUP 2011; Lilian Edwards and Charlotte Waelde, Law and the Internet, HART Publishing 2009, Chrees Reed, Internet Law, Text and Materials, CUP, 2004; Kevin M Rogers, The Internet and the Law, 2011.

[12] Tereshenko L.K. Information as Object of Civil Rights // Copyright in XX Century: Collection of Scientific Articles, M. MFGS, RAP, 2010, C.35-46, Gorodov O.A. Information as an Object of Civil Rights, Jurisprudence. – 2001. – No.5. 72-83; Gayurov Sh.K. Significance of the Principle of Opennes, Accessibility of Information and Freedom of its Exchange in Civil Society // News on AN RT. Series Philosophy and Law, Dushanbe, 2009. No.1. C.112-173; Rassolov M.M. Information Law: Textbook. - M.: Lawyer, 1999. p.47; Snytnikova A.L., Tumanova K.V., Ensuring and Protecting the Rights to Information. M., 2001. P.118; Dozortcev V.A. The Meaning of Exclusive Rights // Problems of Contemporary Civil Law: Collection of articles, M., 2000, c.303-331; Nanosova E.N., Information as Object of Civil Law: Diss. kand. jur. sciences. M., 2002. C.13-23; Volkov Y.V. Subjects of Telecommunication Law. Abstract of diss. kand, jur. sciences,

Uzbekistan considered the place of information in the civil law in national jurisprudence as Okyulov O., Toshev B.N., Zokirov I.B., Gulyamov S.S., Rustambekov R.I., Khojaev B.K, Imomov N.F., Mehmonov K.M., Kholmuminov J.T., Narmatov N.A., Kuldoshev N.A., Khusanov O.T., Baratov M.Kh., Ruziev R.Zh., Choriev M.Sh., Khodzhaev E.K., Nasriev I., Nugmanov N.A., N.S. Karahodjaeva D.M., Safoeva S.M., Raimova N.D., Agzamova M.B. and other authors.[13]

In determining the legal nature and characteristics of information, the questions of national scholars about the legal status of information played a decisive role. The researches of leading international scholars played an important role in defining the models and approaches to legal regulation of information.

**Relationship of dissertation research with the plans of research work of the higher education institution where the dissertation is carried out.** The topic of the dissertation is included in the research plan of the Tashkent State Law University and carried out within the research priorities "Problems of improvement and implementation of the Civil Code of the Republic of Uzbekistan" (2017-2024).

**The aim of the research** subsists in determining the general status of civil law information, its civil law, define its relationship with special types of information and harmonize it, as well as determine the optimal mechanism of its civil exchange, as well as finding legal solutions associated with protection of the interests of right holder of information in online networks.

**The objectives of the research**:

Elaborate the civil law approach to the protection of a wider range of information not restricted to specific types of intellectual property that has various limitations to its protection. Since copyright protection is limited with specific presentation of information and property law protect individual objects, it cannot offer comprehensive protection of information. Property law can offer owner absolute protection not limited in time using requirements to withdraw (vindication) or to remove all obstacles to use the property (negatorial). Consider the Lockean

YGUA, Yekaterinburg. 2007.-c.39; Kopylov V.S. On Model of Civil Law Exchange of Information // Journal of Russian Law. No.9, 1999; Kodynets, A., Information as object of Civ

il Rights: Concept, methodology, legal nature. // Law of Ukraine. 2015, No.1, p.107-113; Vengerov A.B. The right to Information in Conditions of Automation of Governance. – M., 1978; Sherstobitov A.E. Civil-law regulation of obligations to the transfer of information: Abstract. diss. kand. jurid. sciences, Saint Petersburg, 2000, - 26 p. Snytnikov A.A. Information as an Object of Civil Law Relations: Abstract of diss.kand.jurid.sciences. Saint Petersburg. 2000. – 26 p.; Sidorova O.Y. Information as Object of Absoluteand Relative Civil Law Relations; Abstract diss.kand.jurid.sciences. Volgograd, 2003. – 30 p.Gainullina Z.F. Legally Ensuring the Rights and Legal Interests of the Owners of Confidential Information (trade secrets, know-how): diss. kand. .jurid.sciences.M., 1998. – 165 c.; Bogdanov V.M. Information as an Object of Civil Rights: Diss.kand.jurid.sicneces. Yekaterinburg, 2005.-187 p.; Sherbak N.B. Information as an Object of Civil Law Regulation // Legislation (Law for Business). 2004. – No.7.-P.80.

[13] Okyulov O., Intellectual Property Right, – T., 2005; Okyulov O. Theoretical and Practical Legal Problems of the Status of Intellectual Property. – T., 2004; Toshev B.N. Copyright and Information Technologies. – T., 2004; Zokirov I.B., Khusanov O.T, Baratov M.Kh., Imomov N.F. Civil Law, 3rd ed., ILM ZIYO, 2012-p.57; Mehmonov K.M. Improvement of the Regulation of the Computer Programs and Databases in Civil Regulation: Dis. … Doctor of Science. – T., 2018; Ruziev R.Zh., Choriev M.Sh., Khodzhaev E.K., Property and its Legal and Contractual Acquiring in Entrepreneurial Activity, Navruz 2014-p.41; Kholmuminov J.T., Narmatov N.S., Kuldoshev N.A., Civil and Family Law, Publishing Center "Academy" 2008 - p.81;Ismanjanov A.A. Legal bases for the commercial circulation of information products on the Internet: Dis. ... cand. jurid. sciences. - T., 2006; Nasriyev I. The Civil-Law Problems of the Realization and Protection of Private Non-Proprietary Rights: Doctor of Science auto abstract. –T., 2006; Safoeva S.M. The Forms of the Use of Intellectual Property Object in Commercial Exchange, education guidance, – T., 2009.

Labour doctrine[14] as a basis for recognition of the property right and new cases recognizing property rights on objects on virtual objects. Consider as a model for this right the European Union Law for Databases,[15] based on the criteria of made investment (capital or human capacity);

Explore whether specific types of civil information (excluding information related to public law) can be propriatized. Explore the legal grounds for turning of the information of specific types (excluding the state-owned information) into private property. Link it to the specific ways of acquiring rights to civil law information. Determine the relations between proprietor and the user of information and between primary and secondary owner of information;

Test with the popular statement that ownership to the general information does not exist except of the one that simultaneously are trade secrets. Explore the ways of separating broad range of civil law information from trade secrets (due to limiting by trade secrets of information in civil exchange) without limiting protectable information by trade secrets. Link this with the doctrine of "inevitable disclosure", which connotes that exchange of confidential information brings to a situation that information will inevitably be disclosed;

Elaborate the protection of information that can be rendered not by criteria of absolute confidentially, but relative confidence in the context-oriented approach based on the circumstances implying duty of confidence by model of "Law of Confidence";

Research the application of information content protection to information in the form of small media that is growing in popularity and the level of originality is not sufficient to apply copyright protection. It is intended to consider the protection of such objects not according to their form, but according to their content. Investigate the possibility of protecting the content of the information, even if it has changed its form. Based on previous experience, it is intended to give a definition of information content and develop ways to incorporate it into the construction industry. Provide a legal definition of "Big Data" and apply the appropriate legal regime for its regulation, taking into account its nature;

Explore avenues for introduction of information as an object of civil law, also not necessarily through the conventional methods of incorporation as an object of civil law, but also through the adoption of the universal definition of the good in civil law by model of European Union law;

Determining the most relevant legal regime for the introduction of information in civil exchange, taking into account its special qualities, and addressing the unauthorized distribution of information. Considering the quality of information, in particular, such as its reproducibility, consider recognition of the license agreement as to the most appropriate mechanism for ensuring civil exchange of information, rather than the purchase and sale, due to its feature to protect the rights of primary owner of information;

Consider the implications of exceptions to protection, the permission to use of lawfully published works of copyrighted or related rights without consent of author

[14] John Locke (1960) Second Treatise of Government, Sect.27.
[15] Directive on the Legal Protection of Databases of 11 March 1996, L77, 1996-03-07, pp.20-28.

and without payment of compensation in subsequent sale,[16,17] and necessity of limiting in relation to electronic objects, in compliance with practice of binding the "First Sale Doctrine" or the "Doctrine of Exhaustion" with traditional works;

Despite the fact that viewing information on the internet, the user's information system automatically generated copies of information, as if it is not considered a violation in real space, it is necessary to make an exception for this in the virtual space as well. By this means, it is possible to prevent responsibility of ordinary user and an information intermediary not related to this offense. It is pertinent to automatically operated information systems - browsers, search engines, and other information services;

In order to comply with the requirements of concluding contracts under the Civil Code of the Republic of Uzbekistan, in order to ensure the exchange of information products, it is necessary to consider the specific features of contracts concluded on the internet. This requires the civil legislation to clarify that the traditional concepts of offer and acceptance meet the requirements of transactions carried out over the internet. At the same time, it is intended to study the approach of the world's leading information economies related to the legal regulation of this issue;

Since information on the internet is exchanged through information intermediary, the copyright and information right violations on the internet are reasonable to prevent through the intermediary. In order to establish objective rules ensuring that process, it is aimed to consider adopting *Safe Harbor* doctrine or *Mere Conduit* defense. In accordance with these doctrines, intermediaries are exempt from liability in the case of non-monitoring or non-moderation of the content. It is necessary to explore the application of the "Willful Blindness" doctrine against the reluctance of intermediary to address the violation in digital media platforms;

It is necessary to research the influence of the economic models of online video sharing networks with the flow of information content on the legal protection of information. Since YouTube has become the main video content exchange network, it is necessary to coordinate the operation of the protection method used in it, the consequences for the right holder and users, and compliance of the protection method used by them with the legal protection methods. The goal is to determine the appropriateness of the measure against placing the content on the network without the permission of the right holder, and to what extent it meets the interests of the parties;

The new generation of information objects as Computer-Generated Works (CGW) made by generative software or artificial intelligence (AI) requires determining the criteria for information as an object of civil law. At the same time, this requires a response from the copyright that in more straightforward UK approach is made through attributing the copyrights to the person who makes

[16] Article 25 of the Law of the Republic of Uzbekistan "On Copyrights and Related Rights dated 20 July 2006 // Collection of Legislation of the Republic of Uzbekistan // 2006, No.28-29, p.260., article 12 of the Law on Computer Programs and Databases dated 6 May 1994 // Journal of Oliy Majlis of the Republic of Uzbekistan, 2002, No.4-5, p.74.

[17] Law of the Republic of Uzbekistan No. 1060-XII dated May 6, 1994 "On legal protection of programs and databases created for electronic computing machines" // Bulletin of the Supreme Council // 1994, No. 5, 136 article, in article 13.

necessary arrangements to the production of work. This is aimed to remedying the lacuna of authorless works. However, for the works that fall short of originality, protection through another legal regime may still be required;

Explore the possibility of protection of the new information types presented in the form of genomic data and set the requirements to the use of this information in correlation with the privacy protection law. In addition, it is intended to determine the status of "Big Data" and define the nature of civil relations with them. It is intended to study the inclusion of open information in the category of civil information exchange on public information platforms into a civil relationship by bringing not direct but indirect benefits to the owner according to the standards;

**The object of research** is the legal relationship associated with the creation and use of information in the introduction of information into civil exchange. The empirical basis of the study based on court decisions on the liability of information providers for information transmitted, as well as legal practice on the judicial proceedings on civil transactions involving private-law type information objects, including legal proceedings under the civil law contracts including the one in online media platforms, based on the respective judicial practice.

**The subject of research** is the views, approaches, and problems to the legal qualification and legal regulation of civil exchange of information. The empirical base of the research formed out of the cases about responsibility of information service providers for information transmitted by them, as well as data on civil law transactions, including court trials and decisions on informational objects of private-law type, including the one encountered in online media platforms.

**Research methods.** The research uses the methods of systematic analysis of civil law cases, logical methods (analysis, synthesis), comparative analysis, comparative legal, formal legal and analytical research in civil cases. Doctrinal research combined with a practical approach that is reflected in the analysis of theories and expressed in the proposals. The method of ‘law in context’ or socio-legal analysis can be observed in construing the legal implications of the proposed standards. Empiric method is enabled in learning experiences on digital information in online media platforms.

**Scientific novelty of the research**:

it is substantiated that the organization of the development of the field of open data in the Republic of Uzbekistan should be based on the achievement of reasoned main targeted benchmarks and indicators;

it is substantiated that the information requested as monitoring of “data quality and demand” is based on the understanding of the information that is of the greatest interest and importance for the society;

it is substantiated the necessity of the formation of the open data internet community and the creation and improvement of the market for software products and services using open data on the Internet global information network;

it is substantiated that the conditions of processing of genomic information should prevent its loss, destruction and unauthorized use, as well as illegal and (or) accidental use, and (or) impact on electronic information resources containing genomic information;

it is substantiated that according to the terms of processing of genomic information, it is carried out only in the presence of conditions for ensuring the protection of the obtained data.

**Practical results of the research** in reflected in proposals to amend to the Civil Code of the Republic of Uzbekistan, the Law on Copyright and Related Rights, the Law on Informatization, the eCommerce Law, the Law on Trade Secrets, the Law on Computer Programs and Databases, and number of other normative acts. From a practical viewpoint, the results and recommendations of the study clarify the regulation of relations on the legal status of information as an object of civil law, property rights and goods, which is important in legal implementation practice. The method of information protection, based on the gradual updating of information products developed as part of the dissertation research, used at the Innovation Center "InnoWIUT" at Westminster International University in Tashkent. The method of protecting information is proposed through a phased update, with the maintenance of the register of transmitted information products, which allows identifying the recipient who disclosed information or information product. A message about such an opportunity in a license agreement to the user of information allows us to prevent it of unauthorized distribution. The present method makes it possible to prevent the unauthorized distribution of the information product by the opportunity to most accurately determine the person who disclosed the information product.

**Reliability of research results.** The study used general and specific methods of scholarly research. The results of the study based on international and domestic law, the experience of leading states, advanced legal practice in civil law and information law, generally accepted norms of private law, and other reliable sources and scientific evidence. Conclusions, suggestions and recommendations were approbated, and their results were published in leading domestic and foreign outlets. The obtained results were confirmed by the competent authorities and implemented in practice.

**Implementation of research results.**

Based on the research results obtained on the civil-legal status of information and ways of determining, regulating and solving the legal aspects of the use and protection of civil-legal information:

The proposal to organize the development of the field of open information in the Republic of Uzbekistan based on the achievement of the main target indicators and indicators is the proposal of the Cabinet of Ministers of the Republic of Uzbekistan "Measures for the further development of the field of open information in the Republic of Uzbekistan to 2nd of the concept of the development of the field of open data in the Republic of Uzbekistan in 2021-2025, approved by Resolution No. 808 of December 23, 2020, on the current situation in the field of open data in the Republic of Uzbekistan was used in the development of paragraph (Deed of the Cabinet of Ministers of the Republic of Uzbekistan dated March 1, 2021 No. 12/21-08). The implementation of this proposal made it possible to determine the relevant indicators and indicators for determining the development of the field of open data;

as a monitoring of the quality and demand of information, the proposal to understand the information that is of the greatest interest and importance for society,

the Cabinet of Ministers of the Republic of Uzbekistan "Measures for the further development of the field of open information in the Republic of Uzbekistan "About" on ensuring methodical support of information openness of the concept of development of the open data sector in the Republic of Uzbekistan in 2021-2025, approved by the decision No. 808 of December 23, 2020 It was used in the development of paragraph 15 and sub-paragraph "b" (Deed of the Cabinet of Ministers of the Republic of Uzbekistan dated March 1, 2021 No. 12/21-08); The implementation of this proposal led to the determination of quality information requirements of open data and the development of quality information through the measures defined by the concept;

The proposal of the Cabinet of Ministers of the Republic of Uzbekistan on the creation and improvement of the open data community and the creation and improvement of the market for software products and services using open data on the Internet global information network, "Open data in the Republic of Uzbekistan Software products based on open data of the concept of development of the open data field in the Republic of Uzbekistan in 2021-2025, approved by the decision No. 808 of December 23, 2020 "on measures for the further development of the field of information" and was used in the development of Clause 21 on the creation and improvement of the services market (Deed of the Cabinet of Ministers of the Republic of Uzbekistan dated March 1, 2021 No. 12/21-08). The implementation of this proposal served to form a community on open data and to create and improve the market of software products and services operating using open data on the Internet global information network;

The conditions of processing of genomic information include its loss, destruction and unauthorized use, as well as illegal and (or) accidental use, and (or) impact on electronic information resources containing genomic information. the requirement to ensure that it excludes the possibility of detection Article 23 of the Law of the Republic of Uzbekistan “On Genome State Registration” of November 24, 2020 No. ORQ-649 processing genome information was used in the development of the main requirements for issuing and protecting it (Procedure No. 8 of March 24, 2021 of the Committee on Judiciary and Anti-Corruption of the Senate of the Oliy Majlis of the Republic of Uzbekistan). Implementation of this proposal ensures that electronic information resources containing genomic information are not affected;

The rule on the processing of information related to the genome, to be implemented only if there are conditions for ensuring the protection of the received information, is the rule of the Republic of Uzbekistan dated November 24, 2020 "State regulation on the genome" Article 23 of the Law No. ORQ-649 "on registration" was used in the development of the main requirements for the processing and protection of genomic information (Judiciary issues of the Senate of the Oliy Majlis of the Republic of Uzbekistan and Act No. 8 of March 24, 2021 of the Anti-Corruption Committee). The implementation of this proposal led to the elimination of the processing of genomic information without conditions.

**Approbation of research results**. The results of the research were tested at 9 research events, including 3 international and 6 national scientific-practical

conferences and range of research seminars. The results of the dissertation research on online agreements, quasi-absolute rights to information and the law of confidence, the use of the law of "exhaustion" on the Internet, the rights to computer-generated works, were used in teaching Internet Law subject at Law Department of Westminster International University of in Tashkent (WIUT).

**Publication of research results.** In total, 19 research works, including monographs, books from international academic publishing houses, 10 articles (7 national and 2 international journals) were published in journals recommended by the Higher Attestation Commission to publish the main scientific results of the dissertation. The article was published in the International Journal of Legal Studies, №1 (5) 2019, with the impact factor Index Copernicus ICV: 99.6. The conceptual foundations of the dissertation were published by the encyclopedia of intellectual property of the leading international academic publisher Wolters Kluwer under the authorship of the dissertant.

**The structure and volume of the dissertation.** The dissertation consists of an introduction, four chapters, a conclusion and bibliography. The volume of the thesis is 277 pages.

## MAIN CONTENT OF THE DISSERTATION

The **introduction** of the dissertation reveals the significance and actuality of the topic of the dissertation, the priority areas of the research, the degree acquaintance with the problem being studied, the relation of the topic of dissertation with the research plans of the highest educational institution in which the dissertation is made, its goal, objectives, object and subject, research methods, its scientific novelty and practical results, the reliability of the research results, theoretical and practical significance, implementation of the research results, testing of research results, the published results of the study, as well as data on the volume and structure of work are given.

The **first chapter** is named as **"Information as an object of civil law and property rights"**. The question of information as an object of civil rights has been in the center of scientific discussions from the last century, with the presence of various views on its problems. In a restrictive approach, there is a position that only information is subject to civil protection that falls under the regime of intellectual property rights, and, in particular, such a variety such as trade secrets. In an expansion approach, protective information includes a range of information that is not limited by trade secret.

To date, new objects presented in the form of publications, reviews, in the form of an information content of the server, which can also include various media files as images, photographs, animations, collages and others posted on the Internet in electronic form appear on the worldwide network.[18] It can also be huge arrays of depersonalized information as "Big Data" on the regulation of the collection and processing of which are indicated in the concept of improving the civil legislation

[18] Michael Dashyan, Law of Information Superhighways: Matters of Legal Regulations in the Internet / M.S.Dashyan. – M.: Wolters Skewer, 2007.-288 p. P.288.

of the Republic of Uzbekistan.[19] In accordance with Section 37 of the Uniform Computer Information Transaction Act, information content is the information intended for transmission and be perceived in the usual sense of using this information or its equivalent.[20] In this position, in information content, focusing occurs on a more significant content than the transitional form from which copyright comes, the protection of which is complicated during the modification of the form. If the information content is created because of person's creativity it is protected by copyright. However, in the case of small objects, a creative contribution to them can be minimal, and according to the *De Minimis* doctrine, it may not be protected by copyright, which requires other grounds to protect it.

At the same time, in relation to civil law information, it is possible to highlight the general requirements for its regulation. These requirements are based on dispositiveness and supported by an inexhaustible definition of its objects. A provision in which civil law regulates some objects in detail, should not mean that it leaves other objects without protection, but rather implies that the legislator considers it appropriate, at the moment, to establish detailed standards for a specific object. Civil law establishes objects that are limited in civil exchange, or are not subject to civil exchange, which gives reason to believe that for other objects it leaves the possibility of unlimited exchange.

Information may fall into the category of civil law given in the Article 81 of the Civil Code of the Republic of Uzbekistan, and as of nature relates to intangible goods. Nevertheless, separate inclusion of information within the objects of civil rights is required, as applied in Article 128 of the Civil Code of the Russian Federation considering information as special objects of civil rights.[21] This is necessary for recognizing rights to a range of information object as well as recognizing it quasi-property rights. The criterion for limited information for recognizing it by the object of civil law specified by L.V. Tumanova and A.A. Snitnikov, will allow her to separate her from the information in the public domain. The regulation of information is also necessary due to the actual exchange of civil law information, which are transferred from one person to another in the manner of universal succession. The turnover of information objects on the Internet gains an enormous scale and is associated with the mainstreaming virtual sharing networks.

The application of the category of goods as a form of exchange of civil law objects is an advantage over individual objects of civil law, in relation to which a specific regime is established. According to the method of civil law regulation, the non-exhaustion of civil law objects opens prospects for information exchange in the form of a general goods category. The category of goods has an advantage over individual objects of civil law, which use civil law objects as a form of exchange and have a special procedure. The right of the European Union determines the definition of goods, which is capable of being evaluated in money, and be the subject

[19] Decree of the President of the Republic of Uzbekistan "On measures to improve civil legislation" dated April 5, 2019 No.R-5464, KMMB, No. 2891, p.1.
[20] Uniform Computer Information Transactions Act (UCITA), available at http://www.law.upenn.edu/bll/ulc/ulc.hn#ucita
[21] Civil Code of the Russian Federation (Part 1) of November 30, 1994 No. 51-FZ

of a commercial transaction,[22] which made it possible to qualify electronic objects in iTunes as an object of civil circulation. The application of the category of goods can provide a civil circulation of a wide range of objects without the need for special civil regulations of each particular object of law.

In accordance with Article 3 of the Law on "Electronic Commerce" dated 31 October 2022, electronic commerce is a transaction carried out in accordance with a contract concluded through an electronic trading platform using information systems within the framework of business activities.[23] However, the definition of the goods should be given in the form of a wide interpretation that gives it indicating its value, and the possibility of civil exchange.

In accordance with the civil legal method, the information regime should open the possibilities for more flexible protection, not limited to restricting criteria of trade secrets in particular, or intellectual property in general. The mechanism for protecting civil information on **"Law of Confidence"** provides information protection without the need for strict compliance with the criteria for trade secrets, however, transmitted under circumstances involving confidentiality (contextual orientation). This regime of information protection by the criterion is not absolute, but relative confidentiality, transmitted under circumstances involving confidentiality, and unauthorized use, which can harm the side to the side.

This is especially instrumental in relation to objects, in relation to which it is not possible to believe about their protection in advance. A special advantage of this method of protection is the protection of publicly accessible object, which is a prerequisite for its promotion and sale. This flexible approach to protected information in civil law can positively affect the development of entrepreneurship in Uzbekistan using information products.

Information is an intangible object. Even in the case of recording information on the material medium, the material carrier does not present the information itself, it also does not determine who can be aware of it and is authorized to use it. Thousands of people can possess the same information at the same time, and possession, as applied to information, means that the person is aware and understands the data. The quality of reproduction of information without significant costs is repeatedly expanded with an electronic form of information.[24] This feature creates a potential threat to civil exchange of information and requires a special approach to measures to regulate it. When entering information into civilian exchange, the copies of the buyer appear to be identical to original. For this reason, it is necessary to distinguish the rights of the original owner from the rights of subsequent users, and license agreements are an appropriate means of doing this. The pre-sale agreement creates an unfavorable situation for buyers to acquire full rights to the object, including distribution rights. This limits the application of

[22] Case 7/68 Commission v Italy (Art Treasures) [1968] ECR 423

[23] The Law of the Republic of Uzbekistan "On Electronic Commerce" dated 29 April 2004 // Collection of Legislation of the Republic of Uzbekistan,, 2004 г., No. 20, p.132.

[24] Raymond T. Nimmer, Patricia Ann Krauthaus, Information as a Commodity: New Imperatives of Commercial Law, 55 Law and Contemporary Problems (1992) 105

ownership rights to information, although such rights can still be present with its original owner.

According to the J.Druey, attributive possession of information can create excessive protection and competing claims for the same information.[25] However, the presence of the same object of civil law among several persons, represents the situation of the object endowed with generic features in accordance with Article 87 of the Civil Code of the Republic of Uzbekistan.[26] According to V.A. Dozoretsev, the presence of the same right among several persons creates not absolute, but the quasi-absolute right creating a limited monopoly, but sufficient to launch the object of civil relations. Thus, exclusive rights underwent transformation and began to qualify as weakened absolute rights.[27]

The exclusive right grants the copyright holder the subjective absolute right to perform various actions, and at the same time, to prohibit their commission to other persons.[28] However, copyright, according to the international doctrine, does not create a monopoly, but only exclusive rights to perform certain actions in relation to the work.[29] In this regard, viewing for access and viewing of works is not unlawful, which is consonant with the law protection of civil law information specified by V.A. Dozortsev tendency.

Recognition of ownership of information is an important prerequisite for civil exchange of information. Since the information forms the basis of the life of each person, he must have the right of ownership of this information.[30] A specific copy of information can be included in the property of the acquirer, and evaluated as intangible assets.[31] Article 9 of the Law of the Republic of Uzbekistan "On Informatization", recognizes the right of ownership in relation to information resources and information systems.[32] This provides the legal ground for the exchange of information as an object of civil law and goods. However, its limitations with information resources and systems requires reconsidering, as it is associated with the legal regime of collective objects as databases. The binding of protective information with comprehensive objects of law limits the scope of information protection, excluding single information products from its regime. Also, according to the "User-Producer" concept, currently single minor information products on the Internet prevail over the complex objects.

The information product is nevertheless denoted as property and the object of ownership in by-laws. According to paragraph 9.1. Decisions of the Cabinet of Ministers of the Republic of Uzbekistan No. 137 dated 03/26/1999 "On approval of the Regulation on the Procedure for the preparation and dissemination of

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[25] Jean Nicolas Druey, Information Cannot be Owned Research Publication No. 2004-05 4/2004, https://cyber.harvard.edu/wg_home/uploads/339/Druey.pdf

[26] Civil Code of Uzbekistan, Part I, dated 1 March 1997 // Journal of Oliy Majlis of the Republic of Uzbekistan, 1996, addendum No.2.

[27] Dozotsev V.A. Concept of Exclusive Rights, 287-320. M.: Gorodets, 2000. p. 297.

[28] Karahodjayeva D.M., Akayeva N.M., Yuldasheva Sh.R., Civil and Family Law, Ilm-Ziyo, 2012- 238. p.370

[29] Ian J. Lloid, *Information Technology Law* (8th edn OUP 2017) 322

[30] Rassolov M.M. Information Law: Textbook. - M.: Lawyer, 1999.p.47.

[31] Kopylov V.A. On Model of Civil Exchange of Information // Scientific-Technical Information.-1999.-#5. p.21-27.

[32] The Law of the Republic of Uzbekistan "On Informatization" dated 11 December 2003 // Collection of Legislation of the Republic of Uzbekistan, 2014 г., #36, p.452.

information resources of the Republic of Uzbekistan on the data transmission network, including the internet", "Documented information, information resources, information products, information exchange means belong to objects of property rights of owners are included in their property.[33] However, this definition is also required to include in Article 9 of the Law of the Republic of Uzbekistan "On Informatization",[34] including information content.

J.Druy expresses skepticism in relation to the legal protection of information in general access, in connection with the association of it with the information space as a whole. However, as Tereshchenko points out, in comparison with public information to which open access is established, information as an object of civil law has limitedness and fame for a certain circle of persons.[35] This limitedness is indicative of the Wolters Kluwer information products, which are performed through structuring. There are more and more cases when measures of ownership are applied to the right to a virtual object in general access. **"Restitution"** of virtual objects of the online game by the Court of China in favor of the plaintiff, symbolizes the application of instruments of ownership in relation to virtual objects in legal practice.[36]

The property right may offer protection, not limited in time, through the requirements to exclude all restrictions that create obstacles to the use of the right (negatorial action). Information may comply with specific methods of acquiring the right to civil law objects, as "turning to the ownership of public things open for collection" in the case of public information.[37] It is also mentioned in Part 4 of Article 12 of the Law on Informatisation, the right on creating private information from public data.[38] However, in Article 9 of this law, among the grounds for the creation of property rights in information, there's no ground for creation of information for the first time, and it is necessary to ensure to complement it with respective provision. Being compiled from open data and on the emergence of the right to it, this information may subsequently be also transferred to the public networks, which indicates that the right is not lost, but exercised the right to use.

As rightly notes O. O., in relation to information, there is no general legal regime, but only the regime of its varieties.[39] This corresponds to the trends of the leading countries of the world, in particular in the decision in the *International News Service v Associated Press*,[40] due to the impossibility of protecting certain types of information by copyright (in this case, due to its basis on facts), it led to the

[33] Regulation No. 137 "On the Procedure for the Preparation and Distribution of Information Resources of the Republic of Uzbekistan on Data Transmission Networks, Including the Internet," dated March 26, 1999. Resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated May 7, 2004 No. 215 - SZ RU - 2004 - No. 19, Article 220.

[34] The Law of the Republic of Uzbekistan "On Informatization" dated 11 December 2003 // Collection of Legislation of the Republic of Uzbekistan, 2014 г., #36, p.452.

[35] Tereshenko L.K. Legal Regime of Information, Abstract to diss. DSc., Moscow, 2011-54. p.14.

[36] Murray A. Information Technology Law. 2nd edn. – UK.: Oxford University Press, p.102.

[37] Article 189 Civil Code of the Republic of Uzbekistan dated 21 December 1995, Part I, The Journal of Oliy Majlis, 1996, No.2, 1997. p.56

[38] Law No. 560-II of the Republic of Uzbekistan "On Informatization" adopted on December 11, 2003 // Bulletin of the Oliy Majlis of the Republic of Uzbekistan, 2004, No. 1-2, article 10.

[39] Okyulov O. Legal Status of Intellectual Property: Abstract of diss. Doctor of Jur.Sciences. – T.: TSUL, 2000.- p.42.

[40] *International News Service v. Associated Press*, 248 U.S. 215 (1918)

recognition of quasi-commercial rights behind electronic news,[41] using the criterion for representing values.[42] However, this position was not supported by subsequent court decisions on similar cases. The decision in the case of the *Cheney Brothers v Doris Silk Corporation*,[43] It recognized as incorrect to endow the right to information in any form, as soon as labor and skills were attached to it. In subsequent cases, the court distance from protecting with general information, which is indicative in the Australian case of *Victoria Park Racing & Recreations Grounds Co. Ltd v Taylor*.[44]

Some civilists of the CIS countries also expressed the impossibility of ownership of information as a whole, by virtue of its focus on protecting material objects,[45] or information carriers.[46] The existing traditional approach inherent in the continental legal system to identify things with substantive and bodily objects of law, which is pronounced in German law. However, another position claims to disseminate the legal regime of things to other objects of civil rights, primarily property, expressed in securities.[47] E.A. Sukhanov focuses on movable property in the property,[48] which, as well as information, is the subject of transfer.

L.A. Tereshenko also indicates that the classic triad of the owner's powers is not applicable to intangible objects, in particular as the right to use, since countless users can use it, as well as the right to dispose, since when the information is alienated, the copyright holder is not deprived of the right of his subsequent use.[49] This, as noted by Andew Murray, inexhaustible nature of information makes possible use of the same information by many persons. This justifies the grounds for quasi rights to information as legitimate rights to its own a copy, without not prevailing over other users. However, the original owner may have the right to dispose of information, and as soon as there are no persons owning this information, then there's little doubt on presence of full property right of original owner to this information.

The right of ownership in national legislation was not aimed at purely things. According to Article 1, the Law of the Republic of Uzbekistan "On Property in the Republic of Uzbekistan", the right of ownership applies to property, which can, at their discretion, own, use and dispose of.[50] Thus, the ownership right is tied to objects that can be owned than purely to things. This approach can be conceptually supported by the consideration of property not as objects, but as relations, where the right of a person confronts the obligation of an unlimited circle of persons. Types of objects of property rights specified in Article 3 of paragraph 1 of the Law of the Republic of Uzbekistan "On Property of the Republic of Uzbekistan" are

[41] Andrew Murray, *Information Technology Law* (2nd edn, OUP 2013) 86
[42] Wendy J. Gordon, 'On Owning Information: Intellectual Property and Restitutionary Impulse' (1992) 78 Va. L. Rev. 178
[43] *Cheney Bros. v. Doris Silk Corporation*, 35 F.2d 279 (2d Cir. 1929)
[44] *Victoria Park Racing & Recreations Grounds CO. Ltd v Taylor* (1937) 58 CLR 479
[45] Gavrilov O.A. Information-Law Systems of Russia. Theoretico-Legal Problems.-M.: "Legal book" and Che-Ro, 1998
[46] Severin V.A. Legal Regulation of Information Relations // Lawyer.-2001. #7. p.2-10
[47] Skryabin S., The Thing as Object of Civil Rights: Selected theoretical problems / Lawyer. - 2004. - #6.
[48] Civil Law" in 2 vol. Vol.I: textbook / Edited by E.A. Suhanov.-2 edn. – M.: BEK Publishing, 1998. - p.299
[49] Tereshenko L.K. et al. Information and Property. Protection of the Rights of Creators and Users of Computer Programs and Databases.-M., Russian Legal Academy under Ministry of Justice, 1996
[50] The Law of the Republic of Uzbekistan "On Property in the Republic of Uzbekistan" dated 31 October 1990, #152-XII — Journal of Supreme Council, 1990 r., #31-33, p. 371.

inexhaustible, and clause 2 of the same article indicates that relations related to information together with intellectual property are regulated by special law. This refers to the Law of the Republic of Uzbekistan "On Informatization",[51] which, nevertheless, requires the addition of the types of information objects in terms of the types of objects.

The defining criteria for ownership in international jurisprudence is the ability to be the subject of sale and exclude the rights of third parties (exceptional aspect). However, according to Roger Smith, the characterization of ownership, if possible, can exclude the rights of third parties, apply both in relation to third parties who have no such rights and in relation to persons with less rights than the owner.[52] This reinforces the thesis about the quasi-absolute right to information. Lockean labor theory, as early recognizing ownership under work spent, can make up the conceptual basis of information protection. This confirms the court's recognition of the right to online games.[53] It echoes the method of acquiring ownership of the model of the Directive "On Databases" of the European Union,[54] which creates a potential possibility of its extension in relation to information objects of law as a whole.

V.A. Kopylov notes that the user acquiring a certain copy of the information exercises his right to information, however, due to the lack of the exclusive right to its distribution, it cannot introduce it into civil exchange.[55] However, the doctrine of "exhaustion" or "first sale" without reference to material objects opens the way to such resale of information. R.Nimmer indicates that the property of information is the possession of many persons at the same time. [56] Murray refers the rights to such objects as "non-rivalrous", which, unlike ownership, does not prevent many persons to use the same information, another mechanism should be applied, rather than the right of ownership.[57] This basis can create a relative right to information (versus absolute right).

J.Druey also expresses skepticism to attribute the right to an object, which in aggregate is an open mass.[58] However, the Civil Code of the Republic of Uzbekistan in Article 56 provides for the acquisition of rights by collecting open things.[59] At the same time, in order to separate from the total mass, information should change not only quantitatively, but also qualitatively, which distinguishes it from the general information. The quality gained by information confirms the previously indicated criteria for the work expend or spent expenses.

There is a theory that property is an absolute right that cannot be obtained for information, since other persons may also require the right to it, having received it

[51] The Law of the Republic of Uzbekistan "On Informatization" dated 11 December 2003 // Collection of Legislation of the Republic of Uzbekistan, 2014 г., #36, p.452.
[52] Rojer J. Smith, Property Law (9th edn Pearson 2017) p.4
[53] *Bragg v Linden Research*, Inc. Case analysis https://h2o.law.harvard.edu/cases/4435
[54] Directive of EU on the Legal Protection of Databases of 11 March 1996, L77, 1996-03-07, pp.20-28.
[55] Kopylov V.S. On Model of Civil Law Exchange of Information // Journal of Russian Law. No.9, 1999 p.21-27.
[56] Raymond T. Nimmer, Patricia Ann Krauthaus, Information as a Commodity: New Imperatives of Commercial Law, 55 Law and Contemporary Problems (1992) 105
[57] Andrew Murray, *Information Technology Law* (2dn edn Oxford University Press 2013) 85.
[58] Jean Nicolas Druey, Information Cannot be Owned Research Publication No. 2004-05 4/2004, at para 22 <https://cyber.harvard.edu/wg_home/uploads/339/Druey.pdf>
[59] Article 189 of Civil Code of the Republic of Uzbekistan dated 21 December 1995, Part I, The Journal of Oliy Majlis, 1996, No.2, 1997. p.56.

independently.[60] This provision is fair in relation to trade secrets, but not entirely correct in relation to information. The random creation of an identical information object is highly unrealistic or nearly impossible that is evidenced by the work of systems for similarity check (Anti-Plagiarism Check). Despite of the enormous mass of information and its gradual expansion, the possibility to meet independently created identical work is still unrealistic.

In 21st century open data have a great potential to expand inclusivity instigate innovations and bring social and economic growth,[61] and should be enjoyed by all.[62] Since normative framework established a restrictive environment for open data, licenses should be necessary tool to achieve its openness.[63]

The big data that acquired importance with spread of sensors, trackers, counters etc., that concern ethical issues like the matters of consent, anonymisation, privacy and data protection.[64] The solutions to make the collection and use of Big Data compatible with the privacy tenets can be pseudonymisation and the exemption of data processing for statistical purposes.[65] However, there is a problem of the possibility of re-identification of anonymized data with increased computational power of technology enabling to trace back to the original source with personal data. This can be tackled through establishing greater transparency on the uses of data for data subjects.[66]

The ownership of created products based on the big data is conventionally governed by the intellectual property rules which vest ownership to the author or creator. By allowing and encouraging acquisition of private ownership of product of open data may disincentivize investments in open data.[67] The protection of legal rights should not hinder technological research and innovation in this field.[68] For this reason, considering generation of big data from many domains and in intersection with multiple rights, its need to avoid its appropriation in order to ensure its open access in the interests of the public.

Since genetic data are becoming an intangible subject matter in their own right, intellectual property becomes increasingly central to its use, however, as there is a high degree of legal and technological complexity and many innovations based on

[60] Jean Nicolas Druey, Information Cannot be Owned Research Publication No. 2004-05 4/2004, at para 20 <https://cyber.harvard.edu/wg_home/uploads/339/Druey.pdf>).

[61] Open Data White Paper: Unleashing the Potential, HM Government, Presented to Parliament by the Minister of State for the Cabinet Office and Paymaster General, June 2013, p.5.

[62] (Opendatacharter.net).

[63] Alexandra Giannopoulou, Understanding Open Data Regulation: Analysis of the Licensing Landscape, in B. van Loenen at al. (eds.), Open Data Exposed, Information Technology Law Series 30 p.2.

[64] Pagallo, Ugo. (2017). The Legal Challenges of Big Data:. European Data Protection Law Review. 3. 36-46. 10.21552/edpl/2017/1/7. p.1.

[65] Pagallo, Ugo. (2017). The Legal Challenges of Big Data:. European Data Protection Law Review. 3. 36-46. 10.21552/edpl/2017/1/7. p.10.

[66] Marina Da Bormida, The Big Data World: Benefits, threats and ethical challenges, Ethical Issues in Covert, Security and Surveillance Research Advances in Research Ethics and Integrity, Volume 8, 2022, 71–91. p.76.

[67] Ruth L. Okediji, Government as Owner of Intellectual Property? Considerations for Public Welfare in the Era of Big Data, VAND. J. ENT. & TECH. L., Vol. 18:2:331, p.331.

[68] Pagallo, Ugo. (2017). The Legal Challenges of Big Data:. European Data Protection Law Review. 3. 36-46. 10.21552/edpl/2017/1/7. p.11.

genetic data. [69] The nature of genetic data challenges individualistic conceptions of privacy and suggests in relational nature of modern privacy. Human Genome Project 2003 in which study achieved textuality of genomic data where unique individual profile with level of detail that was highly revelatory, where revealing this data presented fundamental risks not only to individual privacy, but also privacy of other genetically related individuals.[70] This necessitates requirement of cross consent from data subjects of associated data for genomic data processing.

The **second chapter** is titled as **"Information protection as an object of intellectual property."** It should be recognized that copyright is aimed at protecting information objects of law. However, in the case when it comes to objects that are not protected by copyright, and objects that strictly do not fall under the criteria of trade secrets, information remains outside of legal protection. The presence of such objects is confirmed in Article 4 of the Part 2 of the Law "On the Legal Protection of Computer Programs and Databases" that refers to the availability of information not protected by the copyright from which the database can be created. Also, during the modification of works, copyright is lacking in the methods of protection, by virtue of the orientation of copyright to the form of expression than the content.

In addition, restrictions on the protection criteria for each specific type of intellectual property are due to the object that it is intended to protect. Some intellectual property in general is not tailored to protect information. The patent law establishes the need to publish information about the invention as a prerequisite for its protection.[71] The trademark, having an information nature, is still not related to the satisfaction of the information needs of a person, and its protection is aimed at recognizing the origin of goods and services,[72] because it is intended to be communicated. For this reason, in relation to trademarks, it does not have a legal significance to maintain its confidentiality based on a law or contract.

Thus, **intellectual property is object-specific and non-universal compared to the property right**. The right of ownership is much wider, however, has a misconception related to a focus on things under which physical objects of law are represented. In this regard, in civil law there is a need to protect a wider circle of information objects that has commercial value and strictly not falling under intellectual property criteria.

Intellectual property is balanced with the interests of society, with the gradual transition of its objects to public domain. However, the quasi-law of ownership of information can be balanced by its non-absolute character, which allows the presence of many persons to the same information as soon as they are lawfully obtained. In the relationship between the initial and subsequent owner of the information, there is no doubt about the predominance of the law of the original

[69] WIPO Intellectual Property Guide for Genetic Resources and Genetic Sequence Data. Integrated intellectual property management for genetic material and genetic sequence data. p.5. https://www.wipo.int/export/sites/www/tk/en/docs/ip_gr_grdataguidefin.pdf p.3

[70] Róisín Á Costello, Genetic Data and the Right to Privacy: Towards a Relational Theory of Privacy? Human Rights LawReview, 2022, 22, 1–23, - p.3

[71] Article 15 of the Law of the Republic of Uzbekistan "On Inventions, Utility Models and Industrial Designs dated 6 May 1994, Journal of Oliy Majlis of the Republic of Uzbekistan, 2014, No.5-7, p.138.

[72] Article 3 of the Law of the Republic of Uzbekistan "On Trademarks, Service Marks, and Appellations of Origin dated 30 August 2001 // Journal of Oliy Majlis of the Republic of Uzbekistan, 2001, No.37-37, p.379.

owner, which is absolutely in relation to the rights of subsequent users, in whom this right is derived from the original. However, in relations subsequent owners of the same level, quasi-completely or weakened absolute rights, allows to have information without the right to prevail over others, on the basis of not absolute, but relative law.

The right of intellectual property allows to resolve the problem of subsequent dissemination of information by restrictions on the license agreement. However, when there is no license agreement, the advanced practice of information law consists in limiting the application of the "first sale doctrine" with traditional copyright objects on substantive media (non-electronic form).[73] This allows us to recognize the distribution of information on the Internet in advance unlawful. The analogy of the doctrine of the First Sale is available in Article 25 of the Law of the Republic of Uzbekistan "On Copyright and Related Rights",[74] and in article 13 of the Law of the Republic of Uzbekistan "On Programs for Computers and Databases",[75] given a way for such a resale. However, in relation to information objects in electronic form, this can open the path for internet piracy. To prevent this, in accordance with international legal practice, the right of first sale requires to be restricted with respect to electronic copyright objects.[76]

The third chapter is directed to the research of the problems of **"Ownership of computer-generated work (CGW) created through generative software and artificial intelligence**." In the era of generative software and artificial intelligence, the number of computer-related works created by autonomously without significant human participation is growing. Article 8 of the Law "On Copyright and Related Rights", where, in particular, the results obtained by technical means intended for the production of a certain type, without the implementation of a person aimed at creating individual work, are not protected by copyright.[77] However, the process of creating a work of generative software is fundamentally different from the case of using a computer as a technical tool.

The lack of protection of computer-generated work accelerates them into public information.[78] This is able to demotivate the use of computer technology, holding back the development of the domestic information industry. This can be resolved through the authority of the person who provides the necessary preparations and from the experience of English law and under leading research to the person having control over the process of generating CGW.[79] This will resolve the issue of a gap in the right and prevent the emergence of authorless works, with their circumvention to the third parties.

The **fourth chapter**, titled **"Online Media Regulation"** considers the issues

[73] Clark D. Asay, Kirtsaeng and the First-Sale Doctrine's Digital Problem, 66 Stanford Law Review 17
[74] Article 25 of the Law of the Republic of Uzbekistan "On Copyrights and Related Rights dated 20 July 2006 // Collection of Legislation of the Republic of Uzbekistan // 2006, No.28-29, p.260.
[75] Article 13 of the Law on Computer Programs and Databases dated 6 May 1994 // Journal of Oliy Majlis of the Republic of Uzbekistan, 2002, No.4-5, p.74.
[76] Clark D. Asay, Kirtsaeng and the First-Sale Doctrine's Digital Problem, May 2013, 66 Stanford Law Review, 17
[77] Article 8 of the Law of the Republic of Uzbekistan "On Copyrights and Related Rights dated 20 July 2006 // Collection of Legislation of the Republic of Uzbekistan // 2006, No.28-29, p.260.
[78] Wendy J. Gordon, 'On Owning Information: Intellectual Property and Restitutionary Impulse' (1992) 78 Va. L. Rev. 179
[79] UK Copyrights, Designs and Patents Act 1988, s 9(3).

of digital management of the rights and responsibility of the information intermediary. " Information on the Internet is transmitted through information intermediaries, which are Internet service providers, and at a higher level of the information content sharing platform as YouTube, Vimeo, Dailymotion, etc. With their position in the center of information flows, they can operate as gatekeepers, protecting information and copyright objects. However, in order to protect information to information intermediaries, it is necessary to clearly outline the intermediary liability in the law of the Republic of Uzbekistan "On Electronic Commerce".[80] The current law lists the rights and obligations of e-commerce operators (Article 12) and e-commerce site operators (Article 13), and does not regulate intermediary liability for information.[81] This can be done according to the "Mere Conduit" model of European law,[82] or the US "Safe Harbor" doctrine.[83] These standards intention to exempt from the responsibility of information intermediaries in the absence of monitoring or moderation of the transmitted information content, when not extracting profits from this activity. At the same time, in order to prevent the inaction of information intermediaries in relation to such offenses, it is necessary to apply the "Willful Blindness Doctrine", which provides for responsibility for inaccurate inattention to taking measures in relation to an offense that has become known to a person in charge.

In relation to the contracting through information exchange, Article 365 of the Civil Code of the Republic of Uzbekistan establishes that the contract is considered to be made at the time when the Offer receives an Acceptance.[84] However, for transactions implemented using communication networks, due to the use of instantaneous means of communication, another principle of determination of acceptance should be applied.[85] This is due to the fact that, as a rule, when sending an acceptance, its receipt occurs instantly. This requires connecting the moment of conclusion of the transaction with the moment of receipt of the message about the acceptance in the information system (server) of the recipient. The feasibility of this approach is confirmed by the directive of the European Union "On Electronic Commerce",[86] and legal practice.[87] In the Chapter 4 of the Law of the Republic of

[80] The Law of the Republic of Uzbekistan "On Electronic Commerce" dated 29 April 2004 // Collection of Legislation of the Republic of Uzbekistan, 2004 r., No. 20, p.132.

[81] The Law of the Republic of Uzbekistan "On Electronic Commerce" dated 29 April 2004 // Collection of Legislation of the Republic of Uzbekistan,, 2004 r., No. 20, p.132.

[82] Article 11 of the Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce) OJ 2000 L 178, p.1

[83] Digital Millennium Copyright Act Library of Congress. 1998. The Digital Millennium Copyright Act of 1998: U.S. Copyright Office summary. [Washington, D.C.]: [Copyright Office, Library of Congress].

[84] Civil Code of the Republic of Uzbekistan dated 21 December 1995, The Journal of Oliy Majlis, 1996, No.2, 1997. p.56, attachment to 2-nd issue., article 189.

[85] *Brinkibon Ltd v Stahag Stahl* [1983] 2 AC 34

[86] Article 11 of the Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') (OJ 2000 L 178, p.1

[87] *Entores v Miles Far East Corp* [1955] 2 QB 32

Uzbekistan on "Electronic Commerce" "Procedure for concluding contracts in electronic commerce" (Articles 14-21) this issue has not been resolved.[88]

This approach protects the interests of the consumer in front of electronic stores that serve numerous transactions and have a practice to intentionally ignore an acceptance until they are ready to perform the contract on their part. In the case of a trial, in order to recognize the contract to concluded, the fact of receiving an acceptance should be determining, since confirmation of familiarization with the message presents difficulty. Thus, the obligation to check messages will belong to the e-commerce store, which is advisable to protect the interests of consumers. The important aspect in relation to information, the acceptance at the time of sending the message contributes to synchronization and automation of the process of concluding and performance of the contract, which is especially applicable in relation to information objects transmitted through communication networks.

## CONCLUSION

Based on the analysis of the problems of improving civil regulation and regulation of civil circulation, the following recommendations and decisions are proposed:

### I. Scientific and theoretical conclusions

1. Given the wide interpretation of civil law objects on the basis of the dispositive method, it was proposed to introduce information as an object of civil law in the event that it is separated from public information, and there are no restrictions on its possession and exchange. Given the transfer of information on networks, it refers to movable property, the rights to which can be acquired by collecting publicly available for collecting data or acquisition on the basis of an agreement. This form of expression of civil law information takes into account its common features, due to the limitation of each specific information object as information resources and systems (aggregate objects) of a computer program (performing operations), database (compilation), copyright (form and size), and it was found that its scope can cover these objects as well;

2. In view of the presence of complete rights of the initial owner to private law information recognize its property rights to information. Recognize the subsequent owners of quasi-ownership based on *INS v Associated Press* case. Apply criteria that authorize the right to information as the work spent on the Lockean theory, and the money spent, or the investments made on the basis of the cases that appeared on the recognition of electronic objects in the virtual space;

3. It is offered to dive a definition of information content, the value of which can be in content than in the form (like in copyrights), which can be protected even in the case of modification. To introduce to the Law of the Republic of Uzbekistan "On Informatization" the definition of information content, as "information intended for transmission by its content, and the use of such information or its equivalent". It

[88] The Law of the Republic of Uzbekistan "On Electronic Commerce" dated 29 April 2004 // Collection of Legislation of the Republic of Uzbekistan, 2004 r., No. 20, p.132.

will also protect objects that are insufficient to meet the originality of copyright as media episodes, content of websites, etc.;

4. It is proposed to distinguish between the rights of the original and subsequent owner of the information, the endowment of the powers of the original owner of the right of ownership, and for subsequent owners only the right to use (if the rights to information are not fully transferred, or if the contract is not provided for otherwise);

5. To accept the license agreement as a method of transferring information by default, which allows to distinguish between the rights of the initial and subsequent owner of the information, since the purchase and sale gives the subsequent owner the same rights as the original owner has, which can lead to the unauthorized dissemination of information on the side its users;

6. It is proposed to recognize as the basis for the emergence of the right to information on the model of trust in the case when the information is subject to information that is transmitted under circumstances involving confidentiality (contextual-oriented protection) according to the English "Law of Confidence" that does not necessarily have absolute confidentiality, but relative confidentiality based on the context of information transmission. Such a flexible approach to protected information in civil law can positively affect the development of entrepreneurship in the Republic of Uzbekistan, which creates information products. Such a need exists, given the restrictions of the legal regimes of specific types of information that have their own legal framework, such as software, databases, etc. It is proposed to consider protectable information not as purely trade secrets, due to its restrictions in its use in open trade in open trade, and taking into account the doctrine of the inevitable disclosure, suggesting that the information in the exchange will inevitably be disclosed;

7. It is proposed to ensure civil exchange of information through the adoption of universal definition of "goods" in civil law. It is defined as of the model of the law of the European Union according to the criterion of the ability to be evaluated in money and be the subject of a commercial transactions. Consider the issue of replacing the category of civil law as the definition of goods. The establishment of clear criteria of the object of civil law may exclude the need to regulate each specific object in its system;

8. Since when viewing websites by the Internet users, a copy of information is considered a reproduction loaded into the user's information system, it is proposed to make an introduce respective exception to the qualifications of this action as an offense. This is proposed to introduce according to the standard of Article 5 of the EU Directive Information Society, namely, "when reproduction is carried out by an intermediary when it is temporarily and transient and an integral part of the process and does not have independent economic significance, this is considered as an exception to the offense. This will also eliminate the need for information services to take additional licensees for the use of information, in addition to a license to process information (case about *Infopaq* news aggregator);

9. It is proposed to resolve the issue of the subsequent transmission of information, which is the subject of copyrights in electronic form on the Internet, by restricting the doctrine of "exhaustion" or "first sale doctrine" with traditional

objects on material media as books, DVD discs. This will expand the protection of the rights of owners of copyright and will ensure finding unauthorized dissemination of electronic information on the Internet as unlawful in advance;

10. Considering informational intermediaries as gatekeepers at the center of information flows, an international standard for intermediary liability is proposed for the introduction. Protection of European Law "*Mere Conduit"* and the US Law "*Safe Harbor"* doctrines that allow to clearly outline the responsibility of information intermediaries, which contributes to the predictability at the outset of intermediary liability for the violation committed by the user;

11. The introduction of the "Willful Blindness" doctrine allows to incentivize information intermediaries to resolve unauthorized posting of copyrighted objects and information content in content sharing platforms. According to this doctrine, a party considered responsible, in the occasion when it knew or should have known about the violation and did not take required actions to prevent or seize it;

12. It has been established that market models of online exchange, the exchange networks with streaming of content change the way to protect information, giving priority to it open, and not closed use, with technological protection against copying, download and unauthorized uploading. However, technological protection that allows to chare videos on the internet ignores exceptions to the copyright. The method used by YouTube as a diversion of the profit as an alternative resolution of the dispute ignores contribution of user and should be brought into compliance with the law;

13. A mechanism for resolving the issue of ownership of computer-generated works (CGW) from the position of copyright is proposed, according to the approach of English law. This is achieved through the endowment of the authorship to the person taking necessary preparations and having control over the CGW generation process. This approach allows to prevent the lacunae in law, draw necessary attention to human contribution in these objects, and prevent the emergence of works that do not have authorship, with their unhindered circumvention into the property of third parties;

14. Big Data personifies the general information belonging to an unlimited number of persons (contrary for information on the basis of ownership), which should not be converted to someone else, publicly available, and to which everyone should be authorized to use. The depersonalization of Big Data also does not allow us to establish collective copyright, and due to their integration, it does not allow to distinguish between the right of some persons from others

16. Relations with open data on the Internet should be considered as civil relations if they bring indirect benefits to the owner, and this leads to maintaining the quality and relevance of open data.

**II. Proposals for improvement of regulatory framework:**

17. It is proposed to supplement the chapter 8 of the Civil Code of the Republic of Uzbekistan, the article "98 Information", and the existing article 98 "Trade Secrets" to move the article in the following order due to the fact that the

trade secret is a kind of civil law information and include a new article 98 of the Civil Code Republic of Uzbekistan titled “Information”. To formulate a new article 98 of the Civil Code of the Republic of Uzbekistan in the following form: “Information that is separated from public information, which is not limited to ownership and exchange and in relation to which the owner spend labor or made investments. The specified information is protected from use by a third party who does not have the powers of it legally in order to make profit;

18. In order qualify information automatically reproduced by intermediary systems as an exception to the offense, it is necessary to introduce the appropriate rule. It is proposed to supplement the Law of the Republic of Uzbekistan “Electronic Commerce” with Article 12-2 and name as “temporary reproduction”, and express in the following form “in the case when the intermediary information system carries out reproduction, and it is temporary and transitional, is considered an integral part of the process, and it is considered an integral part of the process, and this process is not of separate economic importance, then this is such a processing of information without the owner is an exception to responsibility;”

19. It is recommended to restore the right to an information product, which will eliminate restrictions in protecting information objects with collective objects of law as information resources and systems available in Article 9 of the Law of the Republic of Uzbekistan “On Informatization”;

20. It is proposed to supplement Article 366 of the Civil Code of the Republic of Uzbekistan on the moment of conclusion of the contract, the third part, in the next wording. “A transaction made using information and communication systems is considered as concluded at the moment when the acceptance of the offer to make a contract received by the recipient’s information system and is available for viewing.” In this case, the information may be transmitted through a communication networks when synchronizing the acceptance of acceptance with the transfer of goods, which allows the process to automate the process using blockchain technology.

21. It is proposed to resolve a problem of subsequent transmission of information that is the subject of copyright by limiting the “first sale” doctrine by traditional objects on material media as books, DVD discs. This will expand the protection of the rights of owners of copyright and will ensure the recognition of the unauthorized dissemination of electronic information on the Internet as unlawful in advance. Such a reference needs to be done in Article 8 of the Law of the Republic of Uzbekistan “On Copyright and Related Rights”, and in Article 4 of Part 2 of the Law of the Republic of Uzbekistan “On the Legal Protection of Competition programs and databases”;

22. To formulate a model of intermediary liability as “an information intermediary is exempted from liability, in the case when he is not aware of the violation, does not modify, and does not monitor the information content of a third party and does not gain profit from this activity”, with the introduction of Articles entitled “Responsibility of Information Intermediaries” in Article 13 of the Law of the Republic of Uzbekistan “On Electronic Commerce”. This wording complies with the leading standards of the intermediary liability of the Mere Conduit European Directive “On Electronic Commerce”, and the US “Safe Harbor” doctrine of “Digital

Millennium Copyright Act" (DMCA);

23. For the introduction of the doctrine of "Willful Blindness Doctrine", part the second of the proposed article can be formulated as "an informational intermediary who has not taken actions to prevent an offense when detecting or notifying a violation of a copyright holder or a third party, is deprived of intermediary protection of the one the first part of this article." The person's reservation "had to know" corresponds to the international-recognized objective standard of intermediary liability, which provides for liability in the case when the violations are obvious, but the intermediary does not intentionally take actions to prevent them;

24. It is proposed to introduce the indicated formulation of authorship on computer-generated works (CGW) in addition to Article 10 of the Law of the Republic of Uzbekistan "On the Copyrights and Related Rights" which refers to authorship. It is proposed to introduce an addition to Article 10 of the Law of the Republic of Uzbekistan "On copyright and related rights" regarding authorship, the formulation of "the author for computer-related work is considered the person who is taken to create the work and has control over the creation of computer-generated works". Add to the proposed new article 98 of the Civil Code of the Information, Part 2 in the next formulation "In the case of the creation of information using generative software or automated systems, the right to control the person who has control over the process of its creation is subject to protection." Part 6 of Article 8 (materials that are not objects of copyright), the law on copyright and related rights set forth in the form of "results obtained using technical means intended for the production of a certain kind, without a person's carrying out creative activity directly aimed at creating individual work", due to cases of using a computer as a means, do not contradict the proposed right to computer-generated work;

25. Give a definition of Big Data as large arrays of data that can be analyzed in computational terms in order to identify patterns, trends and associations, especially related to activity and decision-making by human beings. Enable the definition of Big Data in Article 3 of the Law of the Republic of Uzbekistan "On Informatization" concerning definitions. Due to that, the Big Data are collected from devices related to the scope of many users, to prevent their appeal to certain controllers of the specified data, in the Law of the Republic of Uzbekistan "On Informatization", it is necessary to indicate that Big Data received from users' devices cannot be transferred to the property. In the second part of this article, it is noted that personal data, including information about persons allowing them to identify, must be regulated according to the requirements specified in the Law of the Republic of Uzbekistan "On Personal Data" of July 2, 2019;

26. The open data area should be based on indicators, and the results of their publication should be regularly monitored, and the information necessary for monitoring the quality of information and demand should be understood as information that is of greatest interest and importance to society. This proposal is made and reflected in the concept of the development of the opening data of the Republic of Uzbekistan for 2021-2025, approved by the Decree of the Government of the Republic of Uzbekistan dated December 23, 2020, No. 808 "On measures to

further develop the sphere of open data in the Republic of Uzbekistan";

27. The creation of an open data and the Internet community will help create and improve the market of software products and services working in the global information network. This proposal is made and reflected in the concept of the development of the opening data of the Republic of Uzbekistan for 2021-2025, approved by the Decree of the Government of the Republic of Uzbekistan dated December 23, 2020, No. 808 "On measures to further develop the sphere of open data in the Republic of Uzbekistan";

28. New information, which has become the subject of legal regulation as "genomic information", which may contain personal data, in accordance with the procedure for working with personal data, should be collected if the owner is consent and processed subject to presence of safety conditions. These proposals were reflected in Article 23 of the Law of the Republic of Uzbekistan "On State Genome Registration" dated November 24, 2020, for No. IRK -649.

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

**ТАШКЕНТСКИЙ ГОСУДАРСТВЕННЫЙ ЮРИДИЧЕСКИЙ УНИВЕРСИТЕТ**

**ИСМАНЖАНОВ АКБАР АНВАРЖАНОВИЧ**

# ГРАЖДАНСКО-ПРАВОВОЙ СТАТУС ИНФОРМАЦИИ

12.00.03 – Гражданское право. Предпринимательское право. Семейное право. Международное частное право

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

**Ташкент – 2024**

**Тема диссертации доктора наук (DSc) зарегистрирована Высшей аттестационной комиссией при Министерстве высшего образования, науки и инноваций Республики Узбекистан за № B2018.3.DSc/Yu81.**

Докторская диссертация выполнена в Ташкентском государственном юридическом университете.

Автореферат диссертации размещен на трех языках (узбекском, английском, русском (резюме)) на веб-сайте Научного совета (www.tsul.uz) и Информационно-образовательном портале «Ziyonet» (www.ziyonet.uz).

| | |
|---|---|
| **Научный консультант:** | **Окюлов Омонбой**<br>Заслуженный юрист Узбекистана,<br>доктор юридических наук, профессор |
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| **Ведущая организация:** | **Правоохранительная академия Республики Узбекистан** |

Защита диссертации состоится «19» октября 2024 года в 10:00 на заседании Научного совета DSc.07/30.12.2019.Yu.22.01 при Ташкентском государственном юридическом университете (Адрес: 100047, г. Ташкент, улица Сайилгох, 35. Тел.: (99871) 233-66-36; факс: (99871) 233-37-48; e-mail: info@tsul.uz).

С диссертацией можно ознакомиться в Информационно-ресурсном центре Ташкентского государственного юридического университета (зарегистрировано за №1295). (Адрес: 100047, г. Ташкент, ул. Амира Темура, 13. Тел.: (99871) 233-66-36).

Автореферат диссертации разослан «4» октября 2024 года.
(протокол реестра № 55 от «4» октября 2024 года).

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## ВВЕДЕНИЕ (Аннотация диссертации доктора наук (DSc)

**Цель исследования** - определить гражданско-правовой статус информации, и уяснить и гармонизировать соотношение с её особыми видами, а также определить оптимальный механизм ее гражданско-правового обмена, в том числе найти правовые решения относящиеся к защите информации, связанные с защитой интересов правообладателя информации в онлайн сетях.

**Объект исследования** составляют правовые отношения относительно введения информации в гражданский оборот, в частности по поводу создания, пользования и передачи информации. Эмпирической основой исследования являются судебные решения о правах на информацию, ответственности за информацию, передаваемую провайдерами, а также гражданско-правовые договоры, затрагивающие информационные объекты частноправового характера, в том числе в международных электронных медиа платформах, основанные на соответствующей судебной практике.

**Научная новизна исследования**:

обосновывается, что для организации развития сферы открытых данных в Республике Узбекистан должна быть основана на достижении обоснованных основных целевых показателей и индикаторов;

обосновывается, что информация, запрашиваемая как мониторинг «качества данных и спроса», основана на понимании информации, которая представляет наибольший интерес и важность для общества;

обосновывается необходимость формирования интернет-сообщества по открытым данным, а также создание и совершенствования рынка программных продуктов и услуг, работающих с использованием открытых данных в глобальной информационной сети Интернет;

обосновывается, что к условиям обработки геномной информации относятся исключение возможности её утраты, уничтожения и несанкционированного использования, а также неправомерного и (или) случайного использование и (или) воздействия на электронные информационные ресурсы, содержащие геномную информацию;

обосновывается, что согласно условиям обработки геномной информации, их обработка осуществляется только при наличии условий обеспечения защиты полученных данных.

**Внедрение результатов исследований.**

На основе полученных научных результатов о гражданско-правовом статусе информации и способах определения, регулирования и решения правовых аспектов использования и защиты гражданско-правовой информации:

Предложением по организации развития сферы открытой информации в Республике Узбекистан на основе достижения основных целевых индикаторов и индикаторов является предложение Кабинета Министров Республики Узбекистан «Меры по дальнейшему развитию сферы». открытой информации в Республике Узбекистан ко 2-му Концепции развития сферы открытых данных в Республике Узбекистан в 2021-2025 годах, утвержденной

постановлением №808 от 23 декабря 2020 года, о текущей ситуации в сфере При разработке пункта использовано поле открытых данных Республики Узбекистан (Постановление Кабинета Министров Республики Узбекистан от 1 марта 2021 года № 12/21-08). Реализация данного предложения позволила определить соответствующие индикаторы и индикаторы определения развития сферы открытых данных;

Для мониторинга качества и востребованности информации, предложение понимать информацию, представляющую наибольший интерес и значение для общества, Кабинета Министров Республики Узбекистан «Меры по дальнейшему развитию сферы открытой информации в Республики Узбекистан «О» по обеспечению методического обеспечения информационной открытости концепции развития сектора открытых данных в Республике Узбекистан в 2021-2025 годах, утвержденной постановлением №808 от 23 декабря 2020 года. Используется в разработка пункта 15 и подпункта «б» (Постановление Кабинета Министров Республики Узбекистан от 1 марта 2021 года № 12/21-08); Реализация этого предложения привела к определению требований к качеству информации открытых данных и развитию качества информации посредством мер, определенных концепцией;

Предложение Кабинета Министров Республики Узбекистан по созданию и совершенствованию сообщества открытых данных и созданию и совершенствованию рынка программных продуктов и услуг с использованием открытых данных в глобальной информационной сети Интернет «Открытые данные в Республика Узбекистан Программные продукты на основе открытых данных Концепции развития сферы открытых данных в Республике Узбекистан в 2021-2025 годах, утвержденной решением №808 от 23 декабря 2020 года «О мерах по дальнейшему развитию сферы открытых данных» сфере информации» и был использован при разработке статьи 21 о создании и совершенствовании рынка услуг (Постановление Кабинета Министров Республики Узбекистан от 1 марта 2021 года № 12/21-08). Реализация данного предложения послужила формированию сообщества по открытым данным, а также созданию и совершенствованию рынка программных продуктов и услуг, работающих с использованием открытых данных в глобальной информационной сети Интернет;

К условиям обработки геномной информации относятся ее утрата, уничтожение и несанкционированное использование, а также неправомерное и (или) случайное использование и (или) воздействие на электронные информационные ресурсы, содержащие геномную информацию, требование обеспечения исключения возможности ее использования. Обнаружение При разработке основных требований к ее выдаче и защите использована статья 23 Закона Республики Узбекистан «О государственной регистрации генома» от 24 ноября 2020 года № ORQ-649 (Порядок № 8 от 24 марта 2021 года Комитета по судебной власти и противодействию коррупции Сената Олий Мажлиса Республики Узбекистан). Реализация данного предложения гарантирует, что электронные информационные ресурсы, содержащие геномную информацию, не будут затронуты;

Правило об обработке информации, связанной с геномом, реализуемое только при наличии условий для обеспечения защиты полученной информации, является правилом Республики Узбекистан от 24 ноября 2020 года «Государственное регулирование в области генома». Статья 23 Закона № ORQ-649 «О регистрации» использована при разработке основных требований к обработке и защите геномной информации (Правосудебные вопросы Сената Олий Мажлиса Республики Узбекистан и Закон № 8). от 24 марта 2021 года Антикоррупционного комитета). Реализация этого предложения привела к исключению безоговорочной обработки геномной информации.

**Содержание и объем диссертации.** Диссертация состоит из введения, четырех глав, заключения, и списка использованной литературы. Объем диссертации составляет 277 страницы.

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## LIST OF PUBLISHED WORKS
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Avtoreferat “TDYU Yuridik fanlar Axborotnomasi” jurnali tahririyatida tahrirdan o‘tkazilib, o‘zbek, ingliz va rus tillaridagi matnlar o‘zaro muvofiqlashtirildi.

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