

**O‘ZBEKISTON RESPUBLIKASI HUQUQNI MUHOFAZA QILISH
AKADEMIYASI HUZURIDAGI ILMIY DARAJALAR BERUVCHI
DSc.31/31.12.2020.Yu.67.01 RAQAMLI ILMIY KENGASH**

**O‘ZBEKISTON RESPUBLIKASI
HUQUQNI MUHOFAZA QILISH AKADEMIYASI**

KADIROVA BARNO TURANBOY QIZI

**QIYNOQQA QARSHI KURASHISHGA OID QONUNCHILIK IJROSI
USTIDAN PROKUROR NAZORATINI TAKOMILLASHTIRISH
MASALALARI**

12.00.07 - Sud hokimiyati. Prokuror nazorati. Huquqni muhofaza qilish faoliyatini tashkil etish.
Advokatura

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

Toshkent shahri – 2023

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Kirish (doktorlik (PhD) dissertatsiyasi annotatsiyasi)

Dissertatsiya mavzusining dolzarbligi va zarurati. Dunyoda inson huquq va erkinliklarini himoya qilish va qiynoqqa solishning oldini olish dolzarb bo'lib hisoblanadi. 1948-yil 10-dekabrda xalqaro hamjamiyat "Inson huquqlari umumjahon Deklaratsiyasi"¹ni qabul qilish orqali fuqarolarga qiynoq va shafqatsiz, g'ayriinsoniy yoki qadr-qimmatni xo'rovchi muomala va jazo turlarini qo'llashni taqiqladi. Deklaratsiyaning 5-moddasida "Hech kim qiynoqqa yoki shafqatsiz, g'ayriinsoniy yoki qadr-qimmatni xo'rovchi muomala va jazoga duchor etilmasligi kerak"ligi mustahkamlangan. Bundan tashqari, "Qiynoq va boshqa shafqatsiz, g'ayriinsoniy yoki kamsituvchi muomala va jazo turlariga qarshi" Konvensiyaning² qabul qilinishi xalqaro darajada qiynoqlarni oldini olish va ushbu sohadagi qonunchilik ijrosi ustidan samarali nazorat o'rnatish dolzarb ahamiyat kasb etishini anglatadi.

Jahonda qiynoqqa solishning oldini olish samaradorligini oshirish, harakatlanish erkinligi cheklangan shaxslarning murojaatlarini ko'rib chiqishning mexanizmini takomillashtirish; qiynoqqa solishdan jabrlanganlarga yetkazilgan zararining kompensatsiya qilinishini ta'minlash; qiynoqqa solish holatlarini aniqlash va ularning oldini olishda fuqarolik jamiyati institutlarining davlat organlari bilan samarali hamkorligini ta'minlash hamda faoliyat natijalari to'g'risidagi axborotlarni keng jamoatchilikka yetkazish, huquqni muhofaza qilish organlari xodimlarining jinoyatlarni fosh qilish hamda inson huquqlari sohasidagi bilim va malakalarini oshirish, jinoyatlar profilaktikasining amalda to'g'ri ishlashini ta'minlash hamda qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratini ta'minlash samaradorligiga oid prokuror vakolati va mazkur sohadagi nazorat faoliyati bo'yicha ilmiy tadqiqot ishlarini amalga oshirish muhim ahamiyat kasb etmoqda.

O'zbekiston Respublikasi Prezidentining 2022-yil 28-yanvardagi "2022 — 2026 yillarga mo'ljallangan yangi O'zbekistonning taraqqiyot strategiyasi to'g'risida"³gi PF-60-son Farmonida "qonuniylikni qat'iy ta'minlovchi, ochiq va adolatli prokuratura faoliyatining mustahkam huquqiy asoslarini yaratish hamda «**Qonun — ustuvor, jazo — muqarrar**» tamoyilini bosh mezonga aylantirish, shuningdek, tezkor-qidiruv va tergov faoliyati ustidan nazoratni kuchaytirish, fuqarolarning qadr-qimmatini va erkinligini samarali himoya qilishning ta'sirchan mexanizmlarini joriy etish" huquqni muhofaza qiluvchi organlarning yangi qiyofasini shakllantirish va ularning faoliyatini xalq manfaatlari, inson qadr-qimmatini, huquq va erkinliklarini samarali himoya qilishga yo'naltirish global vazifalardan biri sifatida belgilangan. Statistik ma'lumotlarga ko'ra⁴, 2022-yilda huquqni muhofaza qiluvchi organ xodimlari tomonidan qiynoq va boshqa tazyiqlar o'tkazilganligi haqida 268 ta (2021-yilda 309 ta, 2020-yilda 276 ta) ariza va xabarlar kelib tushgan. Asosiy murojaatlarning 2022 yilda 67 (2021 yil 30) tasi Surxondaryo, 64 (2021 yil 46) tasi Toshkent, 52 (2021 yil 93) tasi Samarqand, 30 (2021

¹ Inson huquqlari Umumjahon Deklaratsiyasi // Elektron manba: <https://constitution.uz/uz/pages/humanrights>

² 10.12.1984 y. BMT va Qiynoqlarga qarshi qo'mita hujjatlari – "Qiynoq va boshqa shafqatsiz, g'ayriinsoniy yoki kamsituvchi muomala va jazo turlariga qarshi" Konvensiya, "Qiynoqlarga hamda muomala va jazolashning boshqa shafqatsiz, g'ayriinsoniy yoki qadr-qimmatni kamsitadigan turlariga qarshi" Konvensiya, Qiynoqlarga qarshi BMT qo'mitasining umumiy tartibdagi mulohazalari hujjatlar to'plami. Toshkent-2014-y. -B.14-15.

³ O'zbekiston Respublikasi Prezidentining 2022-yil 28-yanvardagi "2022 — 2026 yillarga mo'ljallangan Yangi O'zbekistonning taraqqiyot strategiyasi to'g'risida" gi PF-60-son Farmoni. Elektron manba: <https://lex.uz/docs/5841063>

⁴ O'zbekiston Respublikasi Bosh prokuraturasining 5-33827/22 son javob xati

yil 30) tasi Namangan, 23 (2021 yil 34) tasi Buxoro, 7 (2021 yil 4) tasi Toshkent shahri va 25 (2021 yil 72) tasi boshqa hududlarga to‘g‘ri keladi. Shundan, mazkur ariza va xabarlar yuzasidan o‘tkazilgan tekshiruv natijalariga ko‘ra, 4 (2021 yil 20) ta jinoyat ishi qo‘zg‘atilgan, 249 (2021 yil 276) ta jinoyat ishi qo‘zg‘atish rad etilgan, 1 (2021 yil 8) ta boshqa organga yuborilgan va 14 (2021 yil 11) ta holat bo‘yicha tegishli qaror qabul qilish uchun tergovga qadar tekshiruv harakatlari o‘tkazilgan. Qayd etish lozimki, qiynoq bilan bog‘liq murojaatlar soni, ular natijasi bo‘yicha qo‘zg‘atilgan jinoyat ishlari tahlili bu borada prokuror nazoratini yanada takomillashtirish, ushbu yo‘nalishdagi nazorat faoliyatini kuchaytirishda yangi uslublarni joriy etishni taqozo etadi.

Ushbu dissertatsiya tadqiqoti O‘zbekiston Respublikasining Konstitutsiyasi, O‘zbekiston Respublikasining “Prokuratura to‘g‘risida”gi (2001) Qonuni, O‘zbekiston Respublikasi Prezidentining 2017-yil 7-fevraldagi “O‘zbekiston Respublikasini yanada rivojlantirish bo‘yicha Harakatlar strategiyasi to‘g‘risida”gi PF-4947-son, 2022-yil 28-yanvardagi “2022 – 2026 yillarga mo‘ljallangan Yangi O‘zbekistonning taraqqiyot strategiyasi to‘g‘risida”gi PF-60-son, 2017-yil 30-noyabrdagi “Sud-tergov faoliyatida fuqarolarning huquq va erkinliklari kafolatlarini kuchaytirish bo‘yicha qo‘shimcha chora-tadbirlar to‘g‘risida”gi PF-5268-son, 2020-yil 10-avgustdagi “Sud-tergov faoliyatida shaxsning huquq va erkinliklari kafolatlarini yanada kuchaytirish chora-tadbirlari to‘g‘risida”gi PF-6041-son Farmonlari, O‘zbekiston Respublikasi Prezidentining, 2021-yil 26-iyundagi “Qiynoqqa solish holatlarini aniqlash va ularning oldini olish tizimini takomillashtirishga doir qo‘shimcha chora-tadbirlar to‘g‘risida”gi PQ-5163-son va 2023-yil 8-fevraldagi “O‘zbekiston Respublikasida Inson huquqlari sohasidagi Milliy ta’lim dasturini tasdiqlash to‘g‘risida”gi PQ-46-son Qarorlarida hamda mavzuga oid boshqa normativ-huquqiy hujjatlarda belgilangan vazifalarni amalga oshirishda muayyan darajada xizmat qiladi.

Tadqiqotning respublika fan va texnologiyalari rivojlanishining ustuvor yo‘nalishlariga mosligi. Mazkur dissertatsiya respublika fan va texnologiyalar rivojlanishining I. “Axborotlashgan jamiyat va demokratik davlatni ijtimoiy, huquqiy, iqtisodiy, madaniy, ma’naviy-ma’rifiy rivojlantirishda innovatsion g‘oyalar tizimini shakllantirish va ularni amalga oshirish yo‘llari” ustuvor yo‘nalishiga muvofiq bajarilgan.

Muammoning o‘rganilganlik darajasi. Dissertatsiya mavzusi bo‘yicha shu kunga qadar O‘zbekiston Respublikasida mustaqil tadqiqot obyekti sifatida o‘rganilmagan. O‘zbekistonda B.X. Po‘latov, O.M. Madaliyev, F.X. Raximov, V.Karimov, M.X. Rustambayev, Z.S. Ibragimov, G.R. Malikova, O. Toshev, D.S. Dovudova, D.SH. Umarxanova, I.T. Turgunov, SH.I. Zokirov, D. Xamdamova, A.B. G‘afurov, D.M. Mirazov, A.R. Davronov, R.Abdurasulova, M. Maxbubov, SH.J. Raximov, I.B. Djurayev, D. Bazarova, B.B. Adilov va A. Shodiyevlarning tadqiqot ishlarida fuqarolarning huquq va erkinliklari, qonunchilik hujjatlari ijrosi ustidan prokuror nazoratining huquqiy asoslari hamda jamiyatda qonuniylik va qonun ustuvorligini ta’minlashda prokuratura organlarining rolini oshirishga doir masalalar muayyan darajada yoritilgan⁵. A.X. Saidov, A.B. Komilov, F. Eshmatova, D.M. Mirazov, I.B. Djurayev, SH.J. Raximov, SH.I. Zokirov, SH.M. Saidovlar o‘z ilmiy izlanishlarida tadbirkorlarni huquqiy himoya qilish, prokuratura organlarida murojaatlar

⁵ Mazkur va boshqa olimlar asarlarning to‘liq ro‘yxati dissertatsiyaning foydalanilgan adabiyotlar ro‘yxatida berilgan.

bilan ishlash institutini takomillashtirishda prokuratura organlari rolini oshirish, dastlabki tergov idoralari faoliyati ustidan nazorat faoliyatini takomillashtirishning nazariy, tashkiliy va protsessual jihatlari o'rganilgan. Shuningdek, A.B. G'afurov, M.T. Turgunov va Z.S. Ibragimovlar tomonidan olib borilgan tadqiqotlarda inson huquqlariga amal qilish, inson huquqlari bo'yicha xalqaro-huquqiy hujjatlar hamda davlat hokimiyati tizimida prokuratura organlarining rolini muhimligi keng yoritib berilgan. X.A. Karimov tomonidan "Qiynoqqa solishning jinoyat-huquqiy va kriminologik jihatlari" mavzusida dissertatsiya tadqiqoti amalga oshirilgan. Biroq, yurtimizda qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratini, tergovga qadar tekshiruv, surishtiruv, tergovda va shaxsning erkinligi cheklanishi mumkin bo'lgan joylarda prokuror nazoratini samarali tashkil etishga doir tadqiqot ishlari olib borilmagan.

Jumladan, xorijiy mamlakatlarda fuqarolarning huquq va erkinliklarini ta'minlash, dastlabki tergovni olib borishda qonunlar ijrosi ustidan prokuror nazoratining ayrim jihatlari e'tibor qaratilgan. Xususan, Lutz Oette, Tobias Kelly, Yu.E. Vinokurova, A.A. Popov, A.N. Axpanov, D.U. Kaimova, R.S. Chobanyan, O.P. Kopilova, A.P. Golub, V.R. Mannanov va boshqa olimlar tomonidan ilmiy izlanishlar olib borilgan⁶.

Tabiiyki, keltirib o'tilgan va boshqa tadqiqotchilarning ilmiy izlanishlari fuqarolarning huquq va erkinliklarini ta'minlashga oid qonunchilik ijrosi ustidan prokuror nazorati borasidagi tushunchalarining yanada kengayishi va chuqurlashishiga sabab bo'ldi. Biroq, mamlakatimiz va xorijiy olimlar tomonidan qiynoqqa qarshi kurashishga doir qonunchilik ijrosi ustidan prokuror nazoratini takomillashtirish bilan bog'liq muammolar alohida kompleks tarzda o'rganilmagan.

Dissertatsiya tadqiqotining dissertatsiya bajarilgan oliy ta'lim yoki ilmiy-tadqiqot muassasasining ilmiy-tadqiqot ishlari rejalari bilan bog'liqligi. Dissertatsiya mavzusi O'zbekiston Respublikasi Huquqni muhofaza qilish akademiyasining 2021-2023-yil tadqiqot rejasiga kiritilgan va ilmiy tadqiqotlarning ustuvor yo'nalishlari doirasida amalga oshirilgan.

Tadqiqotning maqsadi qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazorati bilan bog'liq muammolar hamda ularni bartaraf etish yo'llarini aniqlash orqali milliy qonunchilikni takomillashtirish, prokuror nazorati samaradorligini oshirish hamda mavzu bo'yicha ilmiy-nazariy va amaliy xulosalar, taklif va tavsiyalar ishlab chiqishdan iborat.

Tadqiqot vazifalari:

- qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratining mohiyati, predmeti, maqsad va vazifalarini ochib berish;
- qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratining tarixi va rivojlanish bosqichlarini tadqiq etish;
- qiynoqqa qarshi kurashishga oid xalqaro va milliy qonunchilik asoslarini tahlil qilish;
- qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratini tashkil etishning o'ziga xos xususiyatlari aniqlash;
- qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratini amalga oshirishda hamkorlik masalalari o'rganish;

⁶ Mazkur va boshqa olimlar asarlarning to'liq ro'yxati dissertatsiyaning foydalanilgan adabiyotlar ro'yxatida berilgan.

- xorijiy davlatlar prokuratura organlarida qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan nazorat faoliyatini qiyosiy-huquqiy tahlil qilish;
- qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazorati samaradorligini oshirish masalalari yuzasidan takliflar ishlab chiqish.

Tadqiqot obyekti – qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratini tashkil etish bilan bog‘liq ijtimoiy munosabatlar hisoblanadi.

Tadqiqot predmeti – qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratini amalga oshirishga oid huquqiy munosabatlarni tartibga soluvchi normativ huquqiy-hujjatlar, bu sohaga tegishli prokuror nazoratining amaliyot hujjatlari, sud amaliyoti materiallari, xalqaro-huquqiy hujjatlar, olimlarning mazkur soha doirasida amalga oshirgan tadqiqot ishlaridan iborat.

Tadqiqotning usullari. Tadqiqot olib borishda tarixiy, tizimli-tuzilmaviy, qiyosiy-huquqiy, sotsiologik, mantiqiylik, ilmiy manbalarni kompleks tadqiq etish, statistik ma’lumotlar tahlili, induksiya, deduksiya kabi usullar qo‘llanilgan.

Tadqiqotning ilmiy yangiligi quyidagilardan iborat:

sudya, prokuror, tergovchi, surishtiruvchi bilan bir qatorda, tergovga qadar tekshiruv organi mansabdor shaxsi ham ishda qatnashayotgan shaxslarning sha’ni va qadr-qimmatini hurmat qilishlari shartligi haqidagi taklif jinoyat protsessi ishtirokchilarining huquq va qonuniy manfaatlarining himoyasini kuchaytirishga, tergovga qadar tekshiruv organlarining bu boradagi majburiyatlarini prinsip darajasiga ko‘tarish asoslantirilgan;

tergovga qadar tekshiruv organlari tomonidan jinoyat sodir etilgani to‘g‘risidagi ariza va xabarlarni ko‘rib chiqish hamda hal qilishning tartibi, prokuror nazorati asosida tezkor-qidiruv faoliyati, tergovga qadar tekshiruv, surishtiruv va dastlabki tergovni olib borishning qonunchilikda belgilangan tartibini prokuror nazoratning predmeti sifatida qonunchilikda mustahkamlanishi asoslantirilgan;

qiynoqqa solishdan jabrlanganlarga yetkazilgan moddiy va ma’naviy zararni qoplash tartibini qonunchilikda mustahkamlanishi zarurati asoslangan;

ushlab turilganlarni, qamoqqa olinganlarni saqlash joylarida, jinoiy jazolarni va jinoyat-huquqiy ta’sirning boshqa choralarini ijro etish chog‘ida, shuningdek, ma’muriy qamoqqa olingan shaxslarning huquq va majburiyatlariga rioya etilishini nazorat qilish prokuror nazoratining predmeti sifatida belgilanishi asoslab berilgan.

Tadqiqotning amaliy natijalari:

tadqiqot natijalari, prokuratura organlari faoliyati hamda prokuror nazorati bo‘yicha olimlarning fikr-mulohazalari tahlil qilinib, prokuror nazorati tushunchasiga mualliflik ta’rifi ishlab chiqilgan;

tergov hibsxonalari, vaqtincha saqlash hibsxonalari va videokuzatuv moslamalari viloyat va ularga tenglashtirishgan ichki ishlar organlarining boshqarmasiga ulanganidek, maxsus qabulxonalari hamda ichki ishlar binolarning kirish joylarida videokuzatuv kameralari bilan ta’minlash hamda ushbu videokuzatuv moslamalarini viloyat va ularga tenglashtirilgan ichki ishlar organlarining boshqarmalariga integratsiya qilish maqsadga muvofiqligi hamda videokuzatuv xotirasini kamida 6 oy muddat saqlanishi lozimligi asoslantirilgan;

gumon qilinuvchi tariqasida ushlangan shaxslarni videoyozuv moslamalarisiz xonalarga olib kirib so‘roq qilishni qat’iyan man etilishi taklifi bildirilgan;

qiynoqqa solish va boshqa shafqatsiz, g'ayriinsoniy yoki qadr-qimmatni kamsituvchi muomalada bo'lish kabi jinoyatlarning oldini olish maqsadida fosh etilmagan og'ir va o'ta og'ir jinoyatlar uchun gumon qilinuvchi tariqasida ushlangan shaxslarni 24 soat ichida tuman, shahar prokurori yoki uning o'rinbosari tomonidan ushlab bilan bog'liq bo'lgan harakatlarda qonunlarga rioya etilishi holatlarini tekshirish uchun shaxsan suhbat o'tkazishi, shuningdek, fosh etilmagan og'ir va o'ta og'ir jinoyatlari ayblov xulosasi bilan kelgan jinoyat ishlarini o'rganib ayblov xulosasini tasdiqlashdan oldin tuman, shahar prokurori yoki uning o'rinbosari tomonidan shaxsan ayblanuvchi bilan suhbat o'tkazilishi amaliyotini joriy etish taklif bildirilgan;

tergov o'tkazish xonalari joylashgan qavatlarida, shuningdek, xavfsizlik nuqtai nazaridan ko'p qavatli huquqni muhofaza qiluvchi idoralarning yuqori qavatlariga xavfsizlik panjaralarini o'rnatish lozimligi asoslantirilgan;

Huquqni muhofaza qilish akademiyasida "Qiynoqqa qarshi kurashish bo'yicha xalqaro-huquqiy hujjatlar hamda javobgarlik" "Qiynoq bilan bog'liq jinoyatlarni tergov qilish" va "Qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazorati" kabi mavzularida majburiy o'quv kurslarini tashkil etish prokuratura organi xodimlari va bo'lajak huquqni muhofaza qiluvchi organ xodimlarining qiynoqqa solish va boshqa shafqatsiz, g'ayriinsoniy qadr qimmatni kamsituvchi muomala va boshqa jazo turlarining oldini olishda malakali kadrlarni yetishtirishga xizmat qilishi asoslantirilgan;

qiynoqqa solish va boshqa shafqatsiz, g'ayriinsoniy yoki qadr-qimmatni kamsituvchi muomala va boshqa jazolarning oldini olish yuzasidan fuqarolarning huquq va erkinliklari cheklangan joylarda prokuror nazoratini kuchaytirish maqsadida Ichki ishlar binolari, tergov hibsxonalari, vaqtincha saqlash hibsxonalari hamda jazoni ijro etish muassasalarida prokuror ishonch telefonlarini tashkil etish asoslab berilgan hamda har bir murojaat audio tarzida yuklab olishni tartibga solish taklifi bildirilgan;

qiynoq holatlari yuz berganda ommaviy axborot vositalari orqali jamoatchilikni jinoyat ishi bo'yicha xabardor qilinishi, jinoyat ishi bo'yicha ochiqlikni ta'minlanishi qiynoqlarning oldini olish va qiynoqlarga qarshi kurashishda muhim ahamiyat kasb etishi ilgari surilgan;

qiynoqqa solish va boshqa shafqatsiz, g'ayriinsoniy yoki qadr-qimmatni kamsituvchi muomala hamda jazo turlarini qo'llash jinoyatlari haqidagi ariza va xabarlar bo'yicha tergovga qadar tekshiruvni viloyatlar va ularga tenglashtirilgan prokuraturalarining tergov tarmoqlari tomonidan amalga oshirish taklifi ilgari surilgan;

qiynoqqa solish va boshqa shafqatsiz, g'ayriinsoniy yoki qadr-qimmatni kamsituvchi muomala hamda jazo turlarini qo'llash jinoyati alomatlari yaqqol ko'rinib turganda zudlik bilan jinoyat ishi qo'zg'atilib, viloyatlar va ularga tenglashtirilgan prokuraturalarining tergov tarmoqlari tomonidan dastlabki tergov harakatlari o'tkazilishi taklifi asoslantirilgan.

Tadqiqot natijalarining ishonchliligi. Dissertatsiya tadqiqotining har bir bobi yakunida keltirilgan xulosalar, shuningdek dissertatsiya ishining xulosasida o'z aksini topgan umumnazariy to'xtamlar (qoidalar), qonun hujjatlarini takomillashtirish va huquqni qo'llash amaliyotini rivojlantirish bo'yicha ishlab chiqilgan takliflar prokuror nazorati, huquqni muhofaza qiluvchi organlar faoliyatini tashkil etish hamda advokatura fanida mavjud bo'lgan nazariy qarashlarga, ushbu sohadagi xalqaro hujjatlar, xorijiy

mamlakatlar qonunchiligi, milliy qonunchilik normalariga, shuningdek huquqni qo‘llash amaliyotiga, shu bilan birga, ijtimoiy so‘rov natijalariga asoslanganligi (1245 nafar tuman (shahar) va ularga tenglashtirilgan prokurorlarning fikrini o‘rganish maqsadida so‘rovnoma o‘tkazildi) tadqiqot ishida axborot bazasining ishonchligi rasmiy nashrlarda e‘lon qilingan statistik ma‘lumotlardan, shuningdek monografik tadqiqotlarda tekshirilgan va nashr etilgan adabiyotlardan foydalanilganligi bilan belgilanadi. Bundan tashqari, tadqiqot ishida O‘zbekiston Respublikasi prokuratura organlari tomonidan qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan 2020-yilda o‘tkazilgan 276 ta, 2021-yilda o‘tkazilgan 309 ta, 2022-yilda o‘tkazilgan 268 ta tekshirish va tahlil materiallari, ularning natijasiga ko‘ra qo‘llanilgan prokuror nazorati hujjatlari hamda sud amaliyoti materiallarini o‘rganish natijalaridan foydalanilgan.

Tadqiqot natijalarining ilmiy va amaliy ahamiyati. Tadqiqot natijalarining ilmiy ahamiyati shundaki, unda ishlab chiqilgan ilmiy xulosa va takliflardan qiynoqqa solish va qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratini takomillashtirish, ushbu sohaga taalluqli nazariy bilimlarni boyitish hamda yangi ilmiy tadqiqotlar o‘tkazishda foydalanish mumkinligi bilan izohlanadi.

Tadqiqot natijalarining amaliy ahamiyati unda ilgari surilgan ilmiy xulosalar, takliflar va tavsiyalardan prokuror nazoratini tashkil qilishda, Huquqni muhofaza qilish akademiyasi tinglovchilari, prokuratura organlarining xodimlari, tergovchi, tergovga qadar tekshiruv hamda jazoni ijro etish muassasalari xodimlari uchun ilmiy va uslubiy qo‘llanmalar ishlab chiqishda hamda o‘quv jarayonida foydalanish mumkinligi bilan izohlanadi.

Tadqiqot natijalarining joriy qilinishi.

Fuqarolarning huquq va erkinliklarini ta‘minlash hamda qiynoqqa solish va boshqa shafqatsiz, g‘ayriinsoniy yoki qadr-qimmatni kamsituvchi muomala va boshqa jazolarning oldini olish to‘g‘risidagi taklif O‘zbekiston Respublikasining yangi tahrirdagi Jinoyat-protsessual kodeksining loyihasi 7-moddasida (shaxsning daxlsizligi), shuningdek, “Shaxsning sha‘ni va qadr-qimmatini hurmat qilish” deb nomlangan 8-moddasini ishlab chiqishda inobatga olingan (O‘zbekiston Respublikasi Bosh prokuraturasining 2022-yil 29-martdagi 27/2-53-22-son dalolatnomasi). Mazkur taklif shaxslarning huquqlari va qonuniy manfaatlarini himoya qilish, huquqni muhofaza qilish organlari tomonidan inson qadr - qimmatini hurmat qilishni ta‘minlashga xizmat qilgan.

Tergovga qadar tekshiruv organlari tomonidan jinoyat sodir etilgani to‘g‘risidagi ariza va xabarlarini ko‘rib chiqish hamda hal qilishning tartibi, chiqarilgan qarorlarning qonuniyligini ta‘minlash prokuror nazoratining predmeti ekanligi haqidagi taklif O‘zbekiston Respublikasining yangi tahrirdagi Jinoyat-protsessual kodeksining loyihasi 33-moddasini ishlab chiqishda inobatga olingan (O‘zbekiston Respublikasi Bosh prokuraturasining 2022-yil 29-martdagi 27/2-53-22-son dalolatnomasi). Mazkur taklif tergovga qadar tekshiruv organlarida qonunchilik ijrosi ustidan prokuror nazoratini amalga oshirishning huquqiy asosini mustahkamlashga xizmat qilgan.

O‘zbekiston Respublikasining “O‘zbekiston Respublikasining Fuqarolik kodeksiga qiynoqqa solishdan jabrlanganlarga yetkazilgan zararni qoplash tartibini takomillashtirishga qaratilgan qo‘shimchalar kiritish to‘g‘risida”gi 2022-yil 29-martdagi O‘RQ-761-son Qonuni 1-moddasiga “Qiynoqqa solish va boshqa shafqatsiz,

g'ayriinsoniy yoki qadr-qimmatni kamsituvchi muomala hamda jazo turlarini qo'llash bilan bog'liq jinoyatning jabrlanuvchilariga yetkazilgan zararni qoplash" doirasida ishlab chiqilgan takliflari amaldagi Fuqarolik kodeksining 991-moddasining birinchi qismi hamda 1021-moddasi uchinchi xatboshisiga kiritilishida foydalanilgan (Inson huquqlari bo'yicha O'zbekiston Respublikasi Milliy markazining 2022-yil 27-dekabrda 01/1346-son dalolatnomasi). Mazkur taklif qiynoqqa qarshi kurashishga oid qonunchilikning ta'minlanishi hamda jabrlanuvchilarning qonuniy manfaatlarini himoya qilishga xizmat qilgan.

O'zbekiston Respublikasining "Prokuratura to'g'risida"gi Konstitutsiyaviy qonun loyihasi 8-bobi nomlanishiga "ma'muriy qamoq" va mazkur loyihaning 59-moddasiga "ma'muriy qamoq" so'zlarini kiritilishida inobatga olingan (O'zbekiston Respublikasi Bosh prokuraturasining 2023-yil 4-maydagi 27/2-129-23-son dalolatnomasi). Mazkur taklif qiynoqqa qarshi kurashishga oid qonunchilik ijrosini ta'minlash, shuningdek, ushlab turilganlar, qamoqqa olinganlar, ma'muriy qamoqqa olingan shaxslar, mahkumlarning, hamda jinoyat-huquqiy ta'sirning boshqa choralari qo'llanilgan shaxslarning qonunda belgilangan huquq va majburiyatlariga rioya etilishini ta'minlashga xizmat qilgan.

Tadqiqot natijalarining aprobatsiyasi. Dissertatsiyaning asosiy mazmuni va ilmiy natijalari 4 ta ilmiy anjumanda, jumladan, 2 ta xalqaro va 2 ta respublika miqyosida o'tkazilgan ilmiy-amaliy konferensiya, davra suhbatlari va seminarlarda sinovdan o'tkazilgan.

Tadqiqot natijalarining e'lon qilinishi. Dissertatsiya mavzusi bo'yicha jami 15 ta ilmiy ish, jumladan dissertatsiyalarning asosiy ilmiy natijalarini chop etish tavsiya etilgan ilmiy jurnallarda 8 ta (shundan 4 ta xorijiy jurnallarda) va konferensiya to'plamlarida 7 ta ilmiy maqola va tezislari chop etilgan.

Dissertatsiyaning tuzilishi va hajmi. Dissertatsiya kirish, yettita paragrafni o'z ichiga olgan 3 ta bob, xulosa, foydalanilgan adabiyotlar ro'yxati va ilovalardan iborat. Dissertatsiyaning umumiy hajmi 143 betni tashkil etadi.

DISSERTATSIYANING ASOSIY MAZMUNI

Dissertatsiya ishining **kirish (dissertatsiya annotatsiyasi)** qismida tadqiqot mavzusining dolzarbligi va zarurati, tadqiqotning respublika fan hamda texnologiyalar rivojlanishining asosiy ustuvor yo'nalishlariga mosligi, tadqiq etilayotgan muammoning o'rganilganlik darajasi, dissertatsiya mavzusining dissertatsiya bajarilayotgan oliy ta'lim muassasasining ilmiy-tadqiqot ishlari bilan bog'liqligi, tadqiqotning ilmiy yangiligi va amaliy natijasi, tadqiqot natijalarining ishonchliligi, ilmiy va amaliy ahamiyati, ularning joriy qilinishi, natijalarning aprobatsiyasi, e'lon qilinganligi va dissertatsiyaning hajmi va tuzilishiga oid ma'lumotlar berilgan.

Dissertatsiyaning birinchi bobi "**Qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratining nazariy-huquqiy asoslari**" deb nomlangan bo'lib, uch paragrafdan iborat. Birinchi paragraf "*Qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazorati mohiyati va predmeti*"ga bag'ishlangan bo'lib, qiynoqqa qarshi kurashishga oid qonunchilik normalari, prokuror nazoratining

tushunchasi va mohiyati, qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratining tushunchalari keltirilgan. Mazkur paragrafda dissertant prokuror nazorati tushunchasiga oid olimlar (B.H. Po‘latov, M.X. Rustambayev, Z.S. Ibragimov, F.X. Raximov, A.R. Davronov, A.B. Komilov, G.S. Berezovskaya, Yu.Y. Vinokurov va B.V. Korobeynikovlar) tomonidan keltirilgan ta’riflarni muhokama qilib, bu borada o‘zining mualliflik ta’rifini ishlab chiqqan. Bundan tashqari, prokuror nazoratini amalga oshirishda shaxsning huquq va erkinliklarini ta’minlash, qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratini amalga oshirish bugungi kunda dolzarb masalalardan biri ekanligi, qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazorati predmeti tergovga qadar tekshiruv, surishtiruv, dastlabki tergov va tezkor-qidiruv faoliyatini amalga oshirish vakolatiga ega bo‘lgan organ xodimlarining jinoyatchilikka qarshi kurash faoliyatining huquqiy tartibi, qiynoqqa qarshi kurashishga oid qonunchilik ijrosi bilan bog‘liq protsessual faoliyati hamda davlat organlarining qiynoqlarga qarshi kurashishga oid qonunchilikka rioya etishlariga oid faoliyat hisoblanishi ochib berilgan.

Ushbu bobning *“Qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratining rivojlanish bosqichlari”*, deb nomlangan ikkinchi paragrafida O‘zbekiston hududida fuqarolarning huquq va erkinliklarini ta’minlash hamda qiynoqqa solish va boshqa shafqatsiz, g‘ayriinsoniy yoki qadr-qimmatni kamsituvchi muomala hamda jazo turlarini qo‘llashning oldini olish va prokuror nazoratining rivojlanish tarixi, yuridik adabiyotlar, huquqshunos olimlarning (O.M. Madaliyev, B.X. Po‘latov, G.R. Malikova, M. Maxbubov, Z.S. Ibragimov, D.S. Dovudova, A.X. Saidov, SH.I. Zokirov, J.M. Shodiyev, SH.M. Saidov, T. Reshetnikov) keltirilgan fikrlari, qonunchilik normalari bilan o‘rganilib, 1917-1922 yillarda jinoyat tergov qilishning qonuniyligi, qamoqda saqlash joylari va u yoki bu shaklda nazorat qilish davlat hokimiyati va boshqaruvning turli organlari tomonidan amalga oshirganligi, sovetlar va ularning organlari o‘sha davrda amalga oshirgan qonun ustuvorligini ta’minlash tizimi o‘zini oqlamaganligi, 1922-1924 yillarda “Davlat prokuraturasi to‘g‘risida”gi Nizom tasdiqlanganligi, 1924-1990 yillarda O‘zbekiston SSRda Adliya xalq komissarining o‘rinbosari bir vaqtning o‘zida respublika prokurori ham hisoblanganligi, 1936-yilga kelib, O‘zbekiston SSR prokuraturasi tuzilganligi tadqiq etilgan. Shu bilan birga, O‘zbekiston mustaqillikka erishgandan so‘ng alohida prokuratura tizimiga asos solinganligi, yuqorida nomlari sanab, o‘tilgan olimlar fikrlari hamda qonunchilik asoslariga ko‘ra, O‘zbekiston Respublikasida prokuror nazoratining birinchi bosqichi sifatida 1992-yil 9-dekabrda “Prokuratura to‘g‘risida”gi Qonunining qabul qilinishi, ikkinchi bosqichi sifatida 2001-yil 29-avgustda “Prokuratura to‘g‘risida”gi Qonunini yangi tahrirda qabul qilinishi prokuror nazoratini ta’minlashdan iborat bo‘lganligi masalalari yoritib berilgan.

Bundan tashqari, fuqarolarning huquq va erkinliklarini, shaxsiy daxlsizligini hamda qiynoqqa solish bilan bog‘liq jinoyatlarning oldini olish hamda qonunchilik ijrosi ustidan nazorat olib borish muhtasiblar tomonidan amalga oshirilgan bo‘lib, muhtasib institutining rivojlanish tarixi olimlarimizning fikr mulohazalari bilan isbotlangan. Asrlar davomida bu an‘ana muayyan o‘zgarishlarga yuz tutganiga qaramay, umuman olganda nazorat funksiyasi tubdan tizimli o‘zgarishga uchramagan. Muhtasib lavozimi davlat

boshqaruvida muhim lavozimlardan biri bo'lganligi hamda shariat normalariga muvofiq ish ko'rganligi bilan boshqa lavozimlardan ajralib turganligi tahlil qilingan.

BMTning 1984-yil 10-dekabrda "Qiynoq va boshqa shafqatsiz, g'ayriinsoniy yoki kamsituvchi muomala va jazo turlariga qarshi" Konvensiyasiga O'zbekiston Respublikasi 1995-yil 31-avgustda Oliy Majlis qaroriga asosan qo'shilganligi 2003-yilda Jinoyat kodeksida 235-moddasi yangi tahrirda⁷ qiynoqqa solish va boshqa shafqatsiz, g'ayriinsoniy yoki qadr-qimmatni kamsituvchi muomala hamda jazo turlarini qo'llaganlik uchun javobgarlik belgilanganligi ushbu sohada prokuror nazorati predmeti sifatida yanada mustahkamlanganligi sifatida qayd etilgan.

"Qiynoqqa qarshi kurashishga oid xalqaro va milliy qonunchilik asoslari" deb nomlangan uchinchi paragrafda O'zbekiston Respublikasi Prezidenti SH.M.Mirziyoyev Birlashgan Millatlar Tashkiloti Inson huquqlari bo'yicha kengashining 46-sessiyasidagi nutqi keltirilgan bo'lib, unda "Qiynoqlarning oldini olish bo'yicha milliy preventiv mexanizmni joriy etish doirasida biz odamning qadr-qimmatini yerga uradigan, insoniylikka zid bo'lgan qiynoqlarning har qanday ko'rinishiga bundan buyon ham mutlaqo yo'l qo'ymaymiz. Bunday jinoyatlar qachon sodir etilganidan qat'iy nazar, ular uchun jazo muqarrar"ligini ta'kidlanganligi, Prezidentimizning ushbu fikrlari mazkur yo'nalishdagi qonunchilikni takomillashtirishda muhim ahamiyat kasb etishi keltirib o'tilgan.

Bundan tashqari, xalqaro huquqiy-hujjatlarga e'tibor qaratadigan bo'lsak, xalqaro miqyosda qabul qilingan qiynoqqa solish va boshqa g'ayriinsoniy qadr-qimmatni kamsituvchi muomala va qiynoq bilan bog'liq jinoyatlardan himoyalashga oid hujjatlar insonning ruhiy va jismoniy daxlsizligini kafolatlashga qaratilgan eng muhim hujjatlar sifatida qaraladi. Birlashgan Millatlar Tashkiloti tomonidan 1948-yil 10-dekabrda qabul qilingan "Inson huquqlari umumjahon Deklaratsiyasi", 1966-yil 16-dekabrda BMT Bosh Assambleyasi tomonidan qabul qilingan "Fuqarolik va siyosiy huquqlar to'g'risida"gi Xalqaro Pakt, 1975-yil 9-dekabrda qabul qilingan "Hamma shaxslarni qiynoqlardan boshqa qattiq shafqatsiz yoki qadr-qimmatni kamsituvchi muomala va jazo turlaridan muhofaza qilish to'g'risida"gi Deklaratsiyasi, xalqaro miqyosdagi BMTning eng muhim hujjatlaridan biri 1984-yil 10-dekabrda qabul qilingan "Qiynoq va boshqa shafqatsiz, g'ayriinsoniy yoki kamsituvchi muomala va jazo turlariga qarshi" Konvensiya, 2002-yil 18-dekabrda BMT Bosh Assambleyasining 57/199-rezolyusiyasi bilan qabul qilingan "Qiynoqlar hamda muomala va jazolashning boshqa shafqatsiz, g'ayriinsoniy yoki qadr-qimmatni kamsitadigan turlariga qarshi konvensiyaga Fakultativ protokoli", 1950-yil 4-noyabrdagi "Inson huquqlari bo'yicha Yevropa konvensiyasi", 1948-yildagi "Inson huquqlari va majburiyatlari Amerika Deklaratsiya"si, 1969-yil 22-noyabrdagi "Inson huquqlari bo'yicha Amerika Konvensiyasi", 1985-yil 9-dekabrda "Qiynoqlarning oldini olish va jazolash bo'yicha Amerika konvensiya" va boshqa xalqaro-huquqiy hujjatlar o'rganilib, davlatlar oldida ushbu hujjatlar ijrosini ta'minlash majburiyati mavjudligi, huquqni muhofaza qiluvchi organ xodimlarini, shu jumladan, prokuratura organlari xodimlari uchun qiynoqlarni oldini olishga oid xalqaro

⁷ O'zbekiston Respublikasining 2003-yil 11-noyabrdagi "O'zbekiston Respublikasining ayrim qonun hujjatlariga o'zgarishlar va qo'shimchalar kiritish to'g'risida"gi Qonuni
<https://lex.uz/uz/docs/36558?ONDATE=11.11.2003%2000#37236>

standartlar talablari doirasida qonunchilik ijrosi ustidan prokuror nazorati samaradorligini oshirishda yuqoridagi xalqaro umume'tirof etilgan hujjatlar ham muhim ahamiyat kasb etishi keltirilgan.

Tadqiqot ishida milliy va xalqaro-huquqiy hujjatlarda qiynoqqa solish va boshqa shafqatsiz, g'ayriinsoniy yoki qadr-qimmatni kamsituvchi muomala hamda jazo turlarini qo'llaganlik uchun javobgarlikni kuchaytirish va qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratini takomillashtirish, shaxsning huquq va erkinliklarini kafolatlash va himoyasini ta'minlashga xizmat qilishi muhokama qilingan.

Dissertant tomonidan milliy qonunchilik normalarida qiynoqqa solish va boshqa shafqatsiz, g'ayriinsoniy qadr-qimmatni kamsituvchi muomala va boshqa jazo turlarini qo'llashning oldini olish bo'yicha talablar belgilangan bo'lsa, ularning ijrosini nazorat qilishning protsessual tartibi, shuningdek jinoyatchilikka qarshi kurashni amalga oshiradigan organlar tomonidan qabul qilinayotgan qarorlarning qonuniyligi, jinoyatchilikka qarshi kurashni amalga oshiradigan organlarning qonunlarni ijro etishlari ustidan nazorat qilish, prokuratura organlari o'z faoliyati va vazifalarini bajarish vaqtida faqat qonunlar emas, qonunchilik ijrosi ustidan nazoratni olib bormog'i lozimligi asoslantirilgan.

Dissertatsiyaning ikkinchi bobi "**Qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratini tashkil etish masalalari**" deb nomlanib, uch paragrafni o'z ichiga oladi. Birinchi paragraf "*Qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratining maqsad va vazifalari*" deb nomlangan bo'lib, qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratining holati va huquqiy asoslari yoritilgan. Xususan, O'zbekiston Respublikasi Konstitutsiyasida O'zbekiston Respublikasi hududida qonunlarning aniq va bir xilda bajarilishi ustidan nazoratni O'zbekiston Respublikasining Bosh prokurori va unga bo'ysunuvchi prokurorlar amalga oshirishlari, O'zbekiston Respublikasining "Prokuratura to'g'risida"gi Qonunining 4-moddasida prokuratura organlari faoliyatini amalga oshirish va qonunlar ijrosi ustidan nazoratini olib borish kabi asosiy vazifalar belgilanganligi qayd etilgan.

Olimlar (N.V. Grigoreva, D.A. Lobachev, A.B. Komilov, D.SH. Ibragimov, D.Y. Xabibulllaev, B.X. Po'latov, O.M. Madaliyev, Yu.Ye. Vinokurov, O.P. Kopilova, S.L. Alekseyev, N.R. Votchel, A. Shodiyev) tomonidan ilgari surilgan fikrlarga tayangan holda prokuror nazorati vazifalarini uch toifaga ajratilib, qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazorati maxsus vazifalaridan biri ekanligi, fuqarolarning huquq va erkinliklarini, shaxsning har qanday erkinligi cheklangan joylarda qonuniy manfaatlarini ta'minlash, qiynoqqa solish va boshqa shafqatsiz, g'ayriinsoniy yoki qadr-qimmatni kamsituvchi muomala va boshqa jazo turlarning qo'llanishining oldini olish hamda qonunlarning ijrosini ta'minlash hisoblanishi asoslab berilgan.

Muallif qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratining maqsadi mazkur sohada qonuniylikni mustahkamlash, qonun ustuvorligini ta'minlash, fuqarolarning huquq va manfaatlarini himoya qilish, jinoyatchilikka qarshi kurashish hamda uni oldini olishdan iboratligi to'g'risida xulosaga kelgan.

Muayyan hududda sodir etilgan qiynoqqa solish bilan bog'liq arizalarni ko'rishda o'sha hudud tergovchisining xolisligini ta'minlash hamda ortiqcha ta'sirlardan himoya

qilish va yetarlicha malakaga ega bo'lgan xodimlar tomonidan tergovga qadar tekshiruvni olib borish maqsadida, viloyatlar va ularga tenglashtirilgan prokuraturalarining tergov tarmoqlari tomonidan bunday arizalarni ko'rib chiqib, tergovga qadar tekshiruvni o'tkazish muhimligi tahlil qilingan.

O'z navbatida, qiynoqqa solish va boshqa shafqatsiz, g'ayriinsoniy yoki qadr-qimmatni kamsituvchi muomala hamda jazo turlarini qo'llash jinoyati alomatlari yaqqol ko'rinib turganda zudlik bilan jinoyat ishi qo'zg'atilib, viloyatlar va ularga tenglashtirilgan prokuratura tergov tarmoqlari tomonidan dastlabki tergov harakatlari o'tkazilishi maqsadga muvofiqligi asoslantirilgan.

Ikkinchi paragrafi "*Qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratini tashkil etishning o'ziga xos xususiyatlari*" deb nomlanib, qiynoqqa solishning oldini olish va qonunchilik ijrosini taminlashda bir qancha davlat organlari faoliyatining asosiy qismini talab etsa, qonunchilik ijrosini va shaxs huquq va erkinliklari kafolatlariga oid qonunchilik ijrosi ustidan nazoratni amalga oshirishda ushbu yo'nalishda amalga oshirilayotgan prokuror nazorati muhim ahamiyat kasb etadi. Prokuror nazoratini tashkil etishda har bir sohada nazoratni amalga oshirishning o'ziga xos xususiyatlari bo'lgani kabi, qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratini tashkil etishi ham o'zigaxos xususiyatlarga egaligi tahlil qilingan, ya'ni:

birinchidan, jinoyatchilikka qarshi kurashuvchi idoralarning qonunchilikni ijro etishlari ustidan nazorat qilish va ularning ushbu sohadagi faoliyatini muvofiqlashtirish;

ikkinchidan, mazkur nazorat turi maxsus subyektlarning ya'ni tergovga qadar tekshiruv, surishtiruv, dastlabki tergov hamda tezkor qidiruv organlari xodimlarining shaxsning huquq va erkinliklariga rioya etishlari hamda jazoni ijro etish muassasalarida, tergov va vaqtincha saqlash hibsonalarida, maxsus qabulxonalarda qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratini tashkil etishda namoyon bo'ladi.

Bundan tashqari, tadqiqot ishida qiynoqqa solish va boshqa shafqatsiz, g'ayriinsoniy yoki qadr-qimmatni kamsituvchi muomala hamda jazo turlarini qo'llanilishining oldini olish hamda ushbu jinoyatning yana bir subyekti sifatida tergovga qadar tekshiruv organlari ham shaxslarning sha'ni va qadr-qimmatini hurmat qilishlari shartligi belgilanishi, fuqarolarning huquq va erkinliklarini, shaxsiy daxlsizligi, qolaversa, jinoyat ishi yuzasidan jalb qilingan protsessual ishtirokchilar manfaatlarini ta'minlash ularni himoya qilishda asosiysi, qiynoqqa qarshi kurashish va qiynoqlarni oldini olishda prokuror nazoratining bugungi holati yoritilgan.

"*Qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratini amalga oshirishda hamkorlik masalalari*" deb nomlangan uchinchi paragrafda qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratini amalga oshirishda hamkorlik masalalari alohida ahamiyat kasb etishi keltirilgan.

Prokuratura organlarining qiynoqqa qarshi kurashishga oid qonunchilikning ijrosi ustidan nazoratni amalga oshirish faoliyatida O'zbekiston Respublikasi Oliy Majlisining Inson huquqlari bo'yicha vakili (ombudsman) bilan hamkorligi alohida qayd etilgan. Shuningdek, qiynoqqa qarshi kurash masalalari, bu borada aniqlangan kamchiliklar hamda ularni bartaraf etish borasida ommaviy axborot vositalari orqali jamoatchilikni

xabardor qilish, jinoyat ishi bo'yicha olib borilayotgan tergov harakatlarini haqida ma'lumotlarni yoritib borish, ushbu jinoyatlar bo'yicha ochiqlikni ta'minlashi, qiynoqlarning oldini olish va qarshi kurashishda hamda qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazorati va jamoatchilik nazoratini mustahkamlaydi. Fuqarolar tomonidan huquqni muhofaza qiluvchi organlar faoliyatiga bo'lgan munosabat va ishonch ortirishiga olib kelishi tahlil qilingan.

Muallif tomonidan qiynoqqa qarshi kurashishga oid qonunchilik ijrosini ta'minlash maqsadida, tergov hibsonalari, vaqtincha saqlash hibsonalarini videokuzatuv moslamalari viloyat va ularga tenglashtirishgan ichki ishlar organlarining boshqarmasiga ulanganidek, maxsus qabulxonalarini hamda ichki ishlar binolarining kirish joylarini videokuzatuv kameralari bilan ta'minlash hamda ushbu videokuzatuv moslamalarini viloyat va ularga tenglashtirilgan ichki ishlar organlarining boshqarmalariga integratsiya qilish, shuningdek, videoyozuvlarning saqlanish muddatini kamida 6 oy qilib belgilanishi fuqarolarning huquq va erkinliklarining qisman ta'minlanishi, qiynoqqa solish va boshqa shafqatsiz, g'ayriinsoniy, qadr-qimmatni kamsituvchi va boshqa jazolarning qo'llanishi hamda dalillarning yo'q qilinishini oldini olishga yordam berishi asoslantirilgan.

Tadqiqot ishining uchinchi bobi "**Qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazorati takomillashtirish masalalari**" deb nomlanib, mazkur bobning birinchi paragrafi "*Xorijiy davlatlar prokuratura organlarida qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan nazoratning qiyosiy-huquqiy tahlili*" deb nomlangan bo'lib, qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazorati muammolari va qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratini takomillashtirish yuzasidan bir qator, ilg'or rivojlangan davlatlar, jumladan, Fransiya, AQSH, Germaniya, Latviya, Gruziya, Ukraina, Belarus, hamda bir qator MDH davlatlari prokuratura organlarining faoliyati, qonunchilik ijrosi ustidan nazorati va qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratining o'ziga xos jihatlari qiyosiy-huquqiy jihatdan tahlil etilgan.

Shuningdek, yuridik adabiyotlarda olimlar (Tobios Kelly, A.N. Axpanov, Z.S. Ibragimov, SH.I. Zokirov, O. Toshev, A. Allamuratov, D. Xamdamova) tomonidan xorijiy mamlakatlar prokuratura organlari faoliyati to'rt guruhga bo'lib o'rganilganligi prokuratura faoliyati va vakolatidan hamda davlat tizimlarida tutgan o'рни bilan farqlanganligi masalalari tahlil qilingan.

Xorijiy mamlakatlar tajribalarining ayrimlari mamlakatimiz huquq tizimida o'z aksini topganligini ko'rishimiz mumkin. Xususan, shaxsning huquq va erkinliklarini ta'minlash va qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratini olib borish, jinoyatchilikka qarshi kurashni amalga oshiruvchi organlar tomonidan qonunchilik ijrosi ustidan prokuror nazorati predmeti sifatida keltirilgan. Shuningdek, xorijiy mamlakatlar Fransiya, Germaniya, Gruziya, Ukraina mamlakatlarida prokuratura organlari adliya idoralari qoshida bo'lsa ham, "Prokuratura to'g'risida"gi Qonunlarida jinoyatchilikka qarshi kurashni amalga oshiruvchi organlar faoliyati ustidan prokuror nazoratini amalga oshirish tartibi belgilanganligi qayd etilgan. Ya'ni, qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratini olib borishda tezkor-qidiruv faoliyati, tergovga qadar tekshiruv, surishtiruv, tergov jarayonida qonunchilik ijrosi ustidan nazoratni amalga oshiradi. Ushbu davlatlar qonunchiligidagi prokuror

nazoratining predmeti mamlakatimiz qonunchiligida ham fuqarolarning huquq va manfaatlarini ta'minlash, hamda qiynoqqa solishning oldini olish yuzasidan tergov hibsxonalari, vaqtincha saqlash hibsxonalari, maxsus qabulxonalar, ichki ishlar binolari va jazoni ijro etish muassasalarida qonunchilik ijrosi ustidan prokuror nazoratini olib borish keltirilgan.

Aytish joizki, ayrim MDH mamlakatlarida ya'ni Rossiya Federatsiyasi, Qirg'iziston, Tojikiston davlatlarida Bosh prokurorning maxsus qiynoqqa solish va boshqa shafqatsiz, g'ayriinsoniy qadr-qimmatni kamsituvchi muomalada bo'lish va boshqa jazo turlarini qo'llashning oldini olish yuzasidan buyruqlari qabul qilingan. Qozog'istonda qiynoqqa solinganligi to'g'risidagi arizalarni tekshirish va ularning oldini olish bo'yicha yo'riqnoma orqali prokuror nazoratini amalga oshirilishi o'rganilgan.

Ta'kidlash joizki, milliy qonunchilik va O'zbekiston Respublikasi Bosh prokurorning "Jinoyatchilikka qarshi kurash, surishtiruv, dastlabki tergov va tezkor-qidiruv faoliyatida qonun ustuvorligini hamda shaxsning huquq va erkinliklari himoyasini samarali ta'minlash to'g'risida" hamda "Sud hujjatlari va boshqa organlar hujjatlarini ijro etishda hamda qamoqqa olinganlarni saqlashda qonunga rioya etilishi ustidan nazorat samaradorligini oshirish to'g'risida" buyruqlari bilan fuqarolarning huquq va manfaatlarini ta'minlash hamda qiynoqqa solish va boshqa shafqatsiz, g'ayriinsoniy qadr-qimmatni kamsituvchi muomala hamda boshqa jazolarning oldini olish vazifasini bajaruvchi davlat organlari xodimlarining o'z vazifalarini bajarish ustidan ham nazorat olib borishda prokuratura organlarining nazorati predmeti va vakolatlarini mustahkamlanganligi asoslangan.

"Qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazorati samaradorligini oshirish masalalari" deb nomlangan ikkinchi paragrafda, fuqarolarning huquq va erkinliklarini ta'minlash sohasida prokuror nazorati samaradorligini oshirishda prokuror ta'sir choralarini kuchaytirilishini qonunchilik normalarida mustahkamlanishi maqsadga muvofiqligi asoslantirilgan.

Jumladan, tergov hibsxonalari, vaqtincha saqlash hibsxonalari, maxsus qabulxonalar, jazoni ijro etish muassasalari va Ichki ishlar binolarida prokuror ishonch telefonlarini tashkil etish hamda har bir murojaatni audio tarzida yuklab olish kabi imkoniyatlarni yaratish prokuror nazoratini ta'minlashda samaradorligi oshirishi asoslantirilgan.

Xususan, qiynoqlarning oldini olish maqsadida fosh etilmagan jinoyatlar bo'yicha gumon qilinib ushlangan shaxsni 24 soat ichida shaxsan tuman, shahar prokurori yoki uning o'rinbosari tomonidan suhbat o'tkazishni ta'minlash qiynoqlarning oldini olishga va prokuror nazoratini mustahkamlaydi hamda guvohlantirish tarzidagi protsessual harakatni tergovga qadar tekshiruv vaqtida, shuningdek, so'roq qilish tergov harakatidan oldin o'tkazish lozimligi asoslantirildi.

Bundan tashqari, fosh etilmagan og'ir va o'ta og'ir jinoyatlari ayblov xulosasi bilan kelgan jinoyat ishlarini o'rganib ayblov xulosasini tasdiqlashdan oldin tuman, shahar prokurori yoki uning o'rinbosari tomonidan shaxsan ayblanuvchi bilan suhbat o'tkazilishi qiynoqlarning oldini olish, jinoyatchilikka qarshi kurashish, dalillarning maqbullinini tekshirish yordam berishi asoslantirildi.

O‘z navbatida, xodimlar malakasini oshirish hamda bo‘lajak huquqni muhofaza qiluvchi organ xodimlari uchun qiynoqqa qarshi kurashish hamda qiynoqqa solish va boshqa shafqatsiz, g‘ayriinsoniy, qadr-qimmatni kamsituvchi muomalada bo‘lish va boshqa jazo turlarining oldini olish yuzasidan o‘quv modullarini tashkil etish qiynoqqa solishning oldini olish hamda bugungi kunda prokuror nazoratini mustahkamlaydi.

XULOSA

“Qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratini takomillashtirish masalalari” nomli dissertatsiya tadqiqoti bo‘yicha nazariy va ilmiy-amaliy ahamiyatga ega bo‘lgan quyidagi xulosalarga kelindi:

I. Ilmiy-nazariy taklif va xulosalar

“Prokuror nazorati” hamda qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazorati tushunchasiga hamda predmetiga yangicha mualliflik ta’riflari ishlab chiqildi:

1. Prokuror nazorati bu – qonunchilik ijrosi ustidan nazorat hamda fuqarolarning huquqlari va qonuniy manfaatlarini himoya qilish maqsadida ularning buzilgan huquqlarini o‘z vaqtida aniqlash, buzilgan huquqlarini tiklash, aybdor shaxslarni qonunga asoson javobgarlikka tortish choralari ko‘rish, shuningdek, huquqbuzarliklarni oldini olish va qonun ustuvorligini ta’minlashga qaratilgan faoliyat hisoblanadi.

2. Qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazorati predmeti – tergovga qadar tekshiruv, surishtiruv, dastlabki tergov va tezkor-qidiruv faoliyatini amalga oshirish vakolatiga ega bo‘lgan organ, shuningdek, davlat organlari xodimlarining qiynoqqa qarshi kurashishga oid qonunchilikka rioya etishlariga oid faoliyati.

3. Qiynoqqa solish va boshqa shafqatsiz, g‘ayriinsoniy, qadr-qimmatni kamsituvchi muomalaning oldini olish yuzasidan xalqaro va milliy huquq normalarni o‘rganish bo‘yicha tegishli o‘quv materiallari va axborotlar bilan huquqni muhofaza qiluvchi hamda davlat organlari xodimlarini ta’minlash va ularni malakasini oshirish kerakligi asoslantirildi.

4. Qiynoqqa solish va boshqa shafqatsiz, g‘ayriinsoniy yoki qadr-qimmatni kamsituvchi muomala hamda jazo turlarini qo‘llash jinoyatlarining oldini olishda prokuror nazoratining maxsus vazifalarida aks etishi asoslab berildi.

5. Qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratini tashkil etishning o‘ziga xos xususiyatlari quyidagilarda namoyon bo‘lishi asoslantirildi:

birinchidan, jinoyatchilikka qarshi kurashuvchi idoralarning qonunchilikka rioya etishlarini nazorat qilish va ularning jinoyatchilikka qarshi kurash faoliyatini muvofiqlashtirish;

ikkinchidan, mazkur nazorat turi maxsus subyektlarning ya‘ni tergovga qadar tekshiruv, surishtiruv, dastlabki tergov hamda tezkor qidiruv organlari xodimlarining shaxsning huquq va erkinliklariga rioya etishlari hamda jazoni ijro etish muassasalarida, tergov va vaqtincha saqlash hibsxonalarida, maxsus qabulxonalarda qiynoqqa qarshi

kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratini tashkil etishda namoyon bo'ladi.

II. O'zbekiston Respublikasining amaldagi qonunchiligini takomillashtirishga oid taklif va tavsiyalar

1. O'zbekiston Respublikasi "Prokuratura to'g'risida"gi Qonunining 4-bobini quyidagi tahrirda bayon etish taklif etilgan:

ma'muriy qamoqni, jinoiy jazolarni va jinoyat-huquqiy ta'sirning boshqa choralarini ijro etish chog'ida, ushlab turilganlarni, qamoqqa olinganlarni saqlash joylarida qonunlarga rioya qilinishi ustidan nazorat.

2. O'zbekiston Respublikasi Jinoyat-ijroiya kodeksining "Prokuror nazorati" deb nomlangan 17-moddasiga o'zgartirish va qo'shimchalar kiritish va uni quyidagi tahrirda bayon etish taklifi ilgari suriladi:

"O'zbekiston Respublikasi Bosh prokurori va unga bo'ysunuvchi prokurorlar jazolarni va boshqa jinoyat-huquqiy ta'sir choralarini ijro etish chog'ida qonunchilikka rioya etilishi ustidan nazoratni qonunda belgilangan tartibda amalga oshiradilar".

3. O'zbekiston Respublikasi "Ma'muriy qamoqni o'tash tartibi to'g'risida"gi Qonunining 29-moddasini quyidagi o'zgartirish kiritish taklif etilgan:

Jismoniy kuch ishlatish va maxsus vositalarni qo'llash ma'muriy qamoqqa olingan shaxslarga azob-uqubat yetkazilishiga olib bormasligi, shuningdek qiynoqqa solish va boshqa shafqatsiz, g'ayriinsoniy yoki inson qadr-qimmatini kamsituvchi tazyiqlar bilan amalga oshirilmasligi lozim.

4. O'zbekiston Respublikasi Bosh prokurorining 2016-yil 22-fevraldagi "Jinoyatchilikka qarshi kurash, surishtiruv, dastlabki tergov va tezkor-qidiruv faoliyatida qonun ustuvorligini hamda shaxsning huquq va erkinliklari himoyasini samarali ta'minlash to'g'risida"gi 129-sonli buyrug'ining 4-bandi 5-xatboshi quyidagi tahrirda bayon etish taklif etilgan:

"Qiynoqqa solish va boshqa shafqatsiz, g'ayriinsoniy yoki qadr-qimmatni kamsituvchi muomala hamda jazo turlarini qo'llash jinoyatlari haqidagi ariza xabarlar bo'yicha tergovga qadar tekshiruvni viloyatlar va ularga tenglashtirilgan prokuraturalarining tergov tarmoqlari tomonidan amalga oshiriladi".

Mazkur buyruqning 4.14-bandining 3-xatboshisini quyidagi tahrirda bayon etish taklif etilgan:

Qiynoqqa solish va boshqa shafqatsiz, g'ayriinsoniy yoki qadr-qimmatni kamsituvchi muomala hamda jazo turlarini qo'llash jinoyati alomatlari yaqqol ko'rinib turganda zudlik bilan jinoyat ishi qo'zg'atilib, viloyatlar va ularga tenglashtirilgan prokuraturalarining tergov tarmoqlari tomonidan dastlabki tergov harakatlari o'tkazilishi ta'minlansin.

Mazkur buyruqning 7.6-bandi 2-xatboshisini quyidagi tahrirda bayon etish taklif etilgan:

Tergov va vaqtincha saqlash hibsonalarida saqlanayotgan shaxslarda tan jarohatlari aniqlanishi bilan bog'liq har bir holat yuzasidan tergovga qadar tekshiruv o'tkazilsin va jinoyat protsessual qonunchilik talablari asosida qarorlar qabul qilinsin.

5. O‘zbekiston Respublikasi Jinoyat-protsessual kodeksining 17-moddasi 1-qismini quyidagi tahrirda bayon etish taklif etilgan:

Sudya, prokuror, tergovchi va surishtiruvchi, tergovga qadar tekshiruv organi mansabdor shaxsi ishda qatnashayotgan shaxslarning sha’ni va qadr-qimmatini hurmat qilishlari shart.

6. O‘zbekiston Respublikasi Jinoyat-protsessual kodeksining 215-moddasi 2-qismini quyidagi qo‘shimcha kiritish taklif etilgan:

Ushlab turilgan, qamoqda saqlanayotgan yoki tibbiy muassasaga joylashtirilgan shaxslarga tibbiy ko‘zdan kechirish o‘tkazilishi shart

III. Qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazoratini takomillashtirishga qaratilgan xulosa va tavsiyalar

1. Tergov hibsxonalari, vaqtincha saqlash hibsxonalarining videokuzatuv moslamalari viloyat va ularga tenglashtirilgan ichki ishlar organlarining boshqarmasiga ulanganidek, maxsus qabulxonalari hamda ichki ishlar binolarining kirish joylarida videokuzatuv kameralari bilan ta’minlash hamda ushbu videokuzatuv moslamalarini viloyat va ularga tenglashtirilgan ichki ishlar organlarining boshqarmalariga integratsiya qilish maqsadga muvofiqligi hamda videokuzatuv xotirasini kamida 6 oy muddat saqlanishi lozim.

2. Qiynoqlarning oldini olish va qiynoqlarga qarshi kurashishda qiynoq holatlari yuz berganda ommaviy axborot vositalari orqali jamoatchilikni jinoyat ishi bo‘yicha xabardor qilish, ushbu jinoyat bo‘yicha ochiqlikni ta’minlash lozimligi asoslantirilgan.

3. Gumon qilinuvchi tariqasida ushlangan shaxslarni videoyozuv moslamalarisiz xonalarga olib kirib so‘roq qilishni qat’iyan man etilishi taklif etiladi.

4. Tergov hibsxonalari, vaqtincha saqlash hibsxonalari, maxsus qabulxonalar, jazoni ijro etish muassasalari va Ichki ishlar binolarida prokuror ishonch telefonlarini tashkil etish hamda har bir murojaat audio tarzida yuklab olish kabi imkoniyatlarni yaratish taklifi ilgari surilgan.

5. Qiynoqqa solish va boshqa shafqatsiz, g‘ayriinsoniy yoki qadr-qimmatni kamsituvchi muomalada bo‘lish kabi jinoyatlarning oldini olish maqsadida fosh etilmagan og‘ir va o‘ta og‘ir jinoyatlar uchun gumon qilinuvchi tariqasida ushlangan shaxslarni 24 soat ichida tuman, shahar prokurori yoki uning o‘rinbosari tomonidan ushlab bilan bog‘liq bo‘lgan harakatlarda qonunlarga rioya etilishi holatlarini tekshirish uchun shaxsan suhbat o‘tkazishi, shuningdek, fosh etilmagan og‘ir va o‘ta og‘ir jinoyatlari ayblov xulosasi bilan kelgan jinoyat ishlarini o‘rganib ayblov xulosasini tasdiqlashdan oldin tuman, shahar prokurori yoki uning o‘rinbosari tomonidan shaxsan ayblanuvchi bilan suhbat o‘tkazilishi amaliyotini joriy etish taklif etiladi.

6. Tergov o‘tkazish xonalari joylashgan qavatlarida, shuningdek, xavfsizlik nuqtai nazaridan ko‘p qavatli huquqni muhofaza qiluvchi idoralarning yuqori qavatlariga xavfsizlik panjaralarini o‘rnatish lozimligi asoslantirildi.

7. Huquqni muhofaza qilish akademiyasida “Qiynoqqa qarshi kurashish bo‘yicha xalqaro-huquqiy hujjatlar hamda javobgarlik” “Qiynoq bilan bog‘liq

jinoyatlarni tergov qilish” va “Qiynoqqa qarshi kurashishga oid qonunchilik ijrosi ustidan prokuror nazorati” kabi mavzularida majburiy o‘quv kurslarini tashkil etish prokuratura organi xodimlari va bo‘lajak huquqni muhofaza qiluvchi organ xodimlarining qiynoqqa solish va boshqa shafqatsiz, g‘ayriinsoniy qadr qimmatni kamsituvchi muomala va boshqa jazo turlarining oldini olishda malakali kadrlarni yetishtirishga xizmat qilishi asoslantirildi.

**SCIENTIFIC COUNCIL AWARDING SCIENTIFIC DEGREES
DSc.31/31.12.2020.Yu.67.01 AT THE LAW ENFORCEMENT ACADEMY
OF THE REPUBLIC OF UZBEKISTAN**

LAW ENFORCEMENT ACADEMY OF THE REPUBLIC OF UZBEKISTAN

KADIROVA BARNO TURANBOY KIZI

**ISSUES OF IMPROVING THE PROSECUTOR'S SUPERVISION OVER THE
IMPLEMENTATION OF LEGISLATION ON COMBATING TORTURE**

12.00.07 - Judicial authority. Prosecutorial supervision. Organization of law enforcement activity.
Advocacy

**DISSERTATION ABSTRACT
of doctor of philosophy (PhD) on science in law**

Tashkent – 2023

The theme of the dissertation of the Doctor of Philosophy (PhD) was registered at the Supreme Attestation Commission at the Ministers of the Higher education, science and innovations of the Republic of Uzbekistan with number B2021.1.PhD/Yu488

The dissertation was completed at the Law Enforcement Academy of the Republic of Uzbekistan.

The abstract of the dissertation is posted in three languages (Uzbek, English and Russian (resume)) on the website of the Scientific council (www.proacademy.uz) and Information educational portal «Ziyonet» (www.ziyonet.uz).

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Leading organization:	Academy of the Ministry of Internal Affairs of the Republic of Uzbekistan

The defense of the dissertation will be held at 10:00 on 15th December of 2023 at meeting of the Scientific Council DSc. 31/31.12.2020.Yu.67.01 under the Law enforcement Academy of the Republic of Uzbekistan (Address: 100047, Shahrisabz street, 42, Tashkent, Uzbekistan. Phone: (99871) 202-04-96, fax: (99871) 233-35-81, e-mail: info@proacademy.uz).

The dissertation is available at the Information resource centre of the Law enforcement academy (registered No. 32). (100047, Shahrisabz street, 42, Tashkent, Uzbekistan, e-mail: info@proacademy.uz).

The abstract of the dissertation is distributed on 28th November of 2023.

(Registry Protocol No. 12 from 20th November of 2023.

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INTRODUCTION (abstract of PhD thesis)

Relevance and necessity of the dissertation topic. The protection of human rights and freedoms as well as the prevention of torture are considered relevant in the world. International society banned the use of torture and cruel inhumane or degrading treatment and types of punishment to citizens by adopting the “Universal Declaration of human rights”⁸ in December 10, 1948. Article 5 of the declaration enshrines that “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”. In addition, the adoption of a Convention⁹ against torture and other cruel, inhuman or degrading types of treatment and punishment is of urgent importance, preventing torture at the international level and establishing effective supervision over the implementation of legislation in this area.

Improving the effectiveness of the prevention of torture in the world, improving the mechanism for considering appeals from persons with limited freedom of movement; ensuring compensation for damage caused to victims of torture; ensuring effective interaction of civil society institutions with state bodies in detecting and preventing cases of torture and communicating information about the results of activities to the general public, improving the knowledge and skills of law enforcement officers in the field of crime detection and human rights, it is important to carry out research work on supervisory activities in this area and the competence of the prosecutor, concerning the effectiveness of ensuring the proper functioning of crime prevention and prosecutorial supervision over the implementation of legislation related to the fight against torture.

In the Decree of the President of the Republic of Uzbekistan dated January 28, 2022¹⁰ PD-60 “On the development strategy of new Uzbekistan for 2022-2026” to create a solid legal framework for the activities of the public and fair prosecutor’s office, which strictly provides for legality, and to make the principle of “Law-priority, punishment-inevitable” as a general criterion, as well as to strengthen supervision over operational-search and investigative activities, to introduce influential mechanisms for effective protection of the dignity and freedom of citizens”, the formation of a new image of law enforcement agencies and the orientation of their activities to the effective protection of the interests of the people, human dignity, rights and freedoms are defined as one of the global tasks. According to statistics¹¹, 268 applications and reports (309 in 2021, 276 in 2020) have been received that torture and other harassment were carried out by law enforcement officers of 2022. Of the main appeals, 67 (in 2021 30) are in Surkhandarya, 64 (in 2021 46) in Tashkent, 52 (in 2021 93) in Samarkand, 30 (in 2021 30) in Namangan, 23 (in 2021 34) in Bukhara, 7 (in 2021 4) in Tashkent and 25 (in 2021 72) in other regions. From this, an investigation into the petition and reports

⁸ Universal Declaration of human rights <https://constitution.uz/uz/pages/humanrights>

⁹ 10.12.1984. UN and Committee against torture documents, Convention against torture and other cruel, inhuman or degrading types of treatment and punishment. The Convention against torture and torture and other cruel, inhuman or degrading types of treatment and punishment is a collection of documents of the UN Committee on torture in general order. Tashkent-2014. -p.14-15.

¹⁰ Decree of the President of the Republic of Uzbekistan PD-60 dated January 28, 2022 “On the development strategy of new Uzbekistan for 2022-2026” <https://lex.uz/docs/5841063>

¹¹ Response letter of the prosecutor General’s office of the Republic of Uzbekistan No. 5-33827/22

found that 4 (in 2021 20) criminal cases were filed, 249 (in 2021 276) criminal cases were denied, 1 (in 2021 8) were sent to other authorities, and pre-investigation probationary actions were taken to make the appropriate decision on 14 (in 2021 11) cases. It should be noted that the number of appeals related to torture, as well as the analysis of criminal cases provoked by the result of appeals, in this regard, will require further improvement of prosecutor's supervision and the introduction of new methods in further strengthening supervision in this direction.

This dissertation study serves to some extent in the implementation of the tasks set out in the Constitution of the Republic of Uzbekistan, the law of the prosecutor's office of the Republic of Uzbekistan (2001), the Decree of the President of the Republic of Uzbekistan PD-4947 dated February 7, 2017 "On the strategy of action for the further development of the Republic of Uzbekistan for 2017-2022, the Decree of the President of the Republic of Uzbekistan PD-5268 dated November 30, 2017 "On additional measures to strengthen guarantees of the rights and freedoms of citizens in judicial and investigative activities", the Decree of the President of the Republic of Uzbekistan dated June 26, 2021 "On measures to further strengthen the guarantees of rights and freedoms of a person in judicial and investigative activities" PD-6041 of August 10, 2020, Resolution of the President of the Republic of Uzbekistan PR-5163 "On additional measures to identify cases of torture and improve", the Decree of the President of the Republic of Uzbekistan dated January 28, 2022 PD-60 "On the development strategy of new Uzbekistan for 2022-2026" and the Decree of the President of the Republic of Uzbekistan "On the approval of the national educational program in the field of human rights in the Republic of Uzbekistan" dated February 8, 2023 as well as other regulatory legal acts related to the topic.

The dependence of the research with the main priority areas of development of science and technology in the republic. This dissertation was carried out in accordance with the priority direction I. "Ways to form and implement a system of innovative ideas in the social, legal, economic, cultural, spiritual and educational development of an informed society and a Democratic state" of the development of Science and technology of the Republic.

The extent of the study of the research problem. The research works of O.M.Madaliev, F.X.Rakhimov, V.Karimov, M.X.Rustambayev, Z.S.Ibragimov, G.R.Malikova, O.Toshev, D.S.Dovudova, D.Sh.Umarkhanova, I.T.Turgunov, SH.I.Zokirov, D.Khamdamova, A.B.Gafurov, D.M.Mirazov, A.R.Davronov, R.Abdurasulova, M.Makhbubov, SH.J.Rakhimov, I.B.Djuraev, D.Bazarova, B.B.Adilov and A.Shodiyev cover issues of a certain level of citizens' rights and freedoms and the legal basis of prosecutor's supervision over the implementation of laws, as well as increasing the role of prosecutor's bodies in ensuring legitimacy and the rule of law in society¹². A.B.Komilov, D.M.Mirazov, I.B.Djuraev SH.I.Zokirov, SH.M.Saidov, SH.J.Rakhimov, F.Eshmatova, A.X.Saidov studied the theoretical, organizational and procedural aspects of improving the role of the prosecutor's office and supervision over the activities of the initial investigative agencies on improving the institution of legal protection of entrepreneurs, work with appeals in the prosecutor's

¹² These and other sources are listed in the list of used literature of the dissertation.

office in their research work. The importance of following human rights, international legal documents on human rights and the role of the prosecutor's office in the system of state power has been widely covered in the research work of A.B.Gafurov, M.T.Turgunov and Z.S.Ibragimov. The topic of criminal justice and criminological aspects of torture which had been carried out by X.A.Karimov was taken as a dissertation study. However, no research work has been carried out on prosecutorial supervision over the implementation of legislation related to the fight against torture in our country and on the effective organization of prosecutorial supervision in the pre-investigation examination, inquiry, investigation and where the freedom of the individual may be limited. In particular, when ensuring the rights and freedoms of citizens in foreign countries, conducting a preliminary investigation, attention is paid to certain aspects of prosecutorial supervision over the implementation of laws.

Scientific research by Lutz Oette, Tobias Kelly, Yu.E.Vinokurova, A.A.Popov, A.N.Akhpanov, D.U.Kaimova, R.S.Chobanyan, O.P.Kopylova, A.P.Golub, V.R.Mannanov and other scientists has been undertaken¹³.

Naturally, the scientific research of the cited and other researchers caused a further expansion and deepening of their understanding of the prosecutor's supervision over the implementation of legislation related to the provision of rights and freedoms of citizens. However, the problems associated with the improvement of prosecutor's supervision over the implementation of legislation on the fight against torture by our country and foreign scientists have not been studied separately.

The relevance of the dissertation research to the research plans of the higher education institution where the dissertation was completed. The topic of the dissertation was included in the research plan of the Law enforcement academy of the Republic of Uzbekistan for 2021-2023 and was carried out within the priority areas of scientific research.

The purpose of the study is to improve national legislation, improve the effectiveness of prosecutorial supervision and develop scientific-theoretical and practical conclusions, proposals and recommendations on the topic by identifying problems with prosecutorial supervision over the implementation of legislation related to the fight against torture and ways to eliminate them.

Research tasks:

- disclosure of the essence, subject, goals and objectives of the prosecutor's supervision over the implementation of legislation related to the fight against torture;
- research on the history and stages of development of prosecutor's supervision over the implementation of legislation on the fight against torture;
- analysis of the foundations of international and national legislation on the fight against torture;
- determination of the specifics of the organization of prosecutorial supervision over the implementation of legislation related to the fight against torture;
- study of cooperation issues in the implementation of prosecutor's supervision over the implementation of legislation related to the fight against torture;

¹³ These and other sources are listed in the list of used literature of the dissertation.

-comparative-legal analysis of supervision over the implementation of legislation on the fight against torture in the prosecutor's office of foreign countries;

- development of proposals on issues of improving the effectiveness of prosecutorial supervision over the implementation of legislation related to the fight against torture.

The object of study is the social relationship associated with the organization of prosecutorial supervision over the implementation of legislation related to the fight against torture.

The subject of the study is regulatory legal acts regulating legal relations related to the implementation of prosecutorial supervision over the implementation of legislation related to the fight against torture, acts of prosecutorial supervision carried out over the implementation of legislation in practice, materials of judicial practice, international legal acts and research works of scientists on this area.

Methods of research. Methods such as historical, systematic-structural, comparative-legal, sociological, logical, complex research of scientific sources, statistical data analysis, induction, deduction were utilized when conducting research.

The scientific novelty of the research is followings:

the proposal is substantiated that the judge, prosecutor, investigator, investigator, official of the body of inquiry should also respect the honor and dignity of the persons involved in the case, this will strengthen the protection of the rights and legitimate interests of participants in the criminal process, as well as raise the duties of the bodies of inquiry in this regard to a fundamental level;

the procedure for reviewing and resolving applications and reports on the commission of a crime by the investigating authorities served to consolidate operational-search activities based on the supervision of the prosecutor, the legislatively established procedure for conducting pre-investigation examination, inquiry and preliminary investigation has been strengthened in the legislation as the subject of supervision;

the proposal has been put forward that the procedure for compensation for material and moral damage to victims of torture would be strengthened by law;

it has been based on the fact that supervision over the observance of the rights and obligations of persons imprisoned, in places of detention, during the execution of criminal penalties and other measures of criminal legal influence, as well as administrative detention, is defined as the subject of prosecutorial supervision.

The practical results of the research include the followings:

the activities of the prosecutor's office and the feedback of scientists on prosecutor's supervision were analyzed and the concept of prosecutor's supervision was developed;

the expediency of providing video surveillance cameras at the entrances of remand prisons and temporary detention facilities to the premises of regional and equivalent internal affairs bodies, as well as the expediency of integrating these video surveillance devices into the premises of regional and equivalent internal affairs bodies of management bodies, as well as video surveillance memory is no less reasonable to store it for 6 months;

it has been suggested that persons caught as suspects should be strictly prohibited from being taken into rooms and interrogated without video surveillance devices;

in order to prevent crimes such as torture and other cruel, inhuman or degrading treatment, it has been proposed to introduce the practice of conducting in-person interviews to verify compliance with the law in actions related to the detention of persons caught as suspects for undisclosed serious and extremely serious crimes by the district, city attorney or deputy within 24 hours;

it is based on the fact that it is necessary to install security bars on the floors where the investigation rooms are located, as well as on the upper floors of multi-story law enforcement agencies for security reasons.

it is substantiated that organization of compulsory training courses at the Law enforcement academy on such topics as “International legal documents on the fight against torture and responsibility”, “Investigation of crimes related to torture” and “Prosecutor’s supervision over the implementation of legislation on the fight against torture” serves to the cultivation of qualified personnel in the prevention of torture and other cruel, inhuman treatment of dignity and other types of punishment by employees of the prosecutor’s office and future law enforcement agencies;

on the prevention of torture and other cruel, inhuman or degrading treatment and other punishments, in order to strengthen the supervision of the prosecutor in places where the rights and freedoms of citizens are limited, the establishment of prosecutorial hotlines in MIA buildings, investigative detention centers, temporary detention centers and penal institutions is justified, and a proposal is made to regulate the download in the audio style of each appeal;

media awareness of the public in a criminal case in the event of torture cases, ensuring openness in a criminal case has been promoted to be instrumental in preventing torture and combating torture;

it was proposed that pre-investigation review on applications about investigation of torture and other cruel, inhuman or degrading treatment and punitive types of crimes should be implemented by the investigative networks of the provinces and their equivalent prosecutors;

in case of the signs of the crime of torture and other cruel, inhuman or degrading treatment and the use of punitive types are clearly visible, a criminal case is immediately initiated, on the basis of a proposal to conduct preliminary investigative actions by the investigative networks of the provinces and their equivalent prosecutor’s offices.

Reliability of research results. The conclusions presented at the conclusion of each chapter of the dissertation study, as well as the general-level conclusions (rules) reflected in the conclusion of the dissertation work, proposals for improving legislation and the development of law enforcement practices, the supervision of the prosecutor, the organization of law enforcement activities and theoretical views contained in the science of advocacy, international documents in this, the reliability of the information base in the research work, based on the results of a Social Survey (surveyed for the purpose of studying the opinion of 1245 districts (cities) and their equivalent prosecutors), is determined by the use of statistics published in official publications, as well as checked and published literature in monographic studies. In addition, the research work used 276

materials of Investigation and analysis conducted in 2020, 309 in 2021, 268 in 2022 on the implementation of legislation on the fight against torture by the prosecutor's office of the Republic of Uzbekistan, the results of the study of prosecutor's supervision documents and materials of judicial practice applied according to their results.

Scientific and practical significance of the research results.

The scientific significance of the research results is explained by the fact that the scientific conclusions and proposals developed in it can be used to improve prosecutorial supervision over the implementation of legislation on the fight against torture, enrich theoretical knowledge related to this area, and conduct new scientific research.

The practical significance of the results of the study is explained by the fact that the scientific conclusions, proposals and recommendations advanced in it can be used in the organization of prosecutorial supervision, in the development of scientific and methodological manuals for Law enforcement academy listeners, employees of prosecutor's offices, investigators, pre-investigation examination and employees of penal institutions, as well as in the educational process.

The implementation of research results.

The proposal to ensure the rights and freedoms of citizens and prevent torture and other cruel, inhuman or degrading treatment and other punishments was taken into account in Article 7 (inviolability of the individual) of the draft of the Criminal procedural code of the Republic of Uzbekistan in the new edition, as well as in the development of Article 8 "respect for the honor and dignity of a person" (Act of the Prosecutor General's Office of the Republic of Uzbekistan № 27/2-53-22 dated March 29, 2022). This proposal served to protect the rights and legitimate interests of individuals, to ensure respect for human dignity by law enforcement agencies.

The proposal that the procedure for reviewing and resolving applications and reports by the investigating authorities prior to the investigation, supervision over the legality of issued decisions is the subject of prosecutor's supervision was taken into account in the development of Article 33 of the draft of the Criminal procedure code of the Republic of Uzbekistan in the new edition (Act of the Prosecutor General's Office of the Republic of Uzbekistan No. 27/2-53-22 dated March 29, 2022). These proposals served to strengthen the legal basis of the prosecutor's supervision oversight the implementation of legislation in the examination bodies until the investigation.

The proposal to the Article 1 of the Law No. 761 of the Republic of Uzbekistan dated March 29, 2022 "On the introduction of additions to the Civil code of the Republic of Uzbekistan" aimed at improving the procedure for compensation for victims of torture, "damages to victims of a crime related to torture and other cruel, inhuman or degrading treatment and the use of types of punishment" were used in the first part of Article 991 of the current civil code, as well as the third sub paragraph of Article 1021 by the proposals of the crime related to torture developed as part of the compensation of damages to victims. (Act of the National Center of the Republic of Uzbekistan No. 01/1346 dated December 27, 2022). This proposal served to ensure legislation related to the fight against torture as well as to protect the legitimate interests of victims.

The proposal to introduce the term “administrative detention” was taken into account in the introduction of administrative detention in the title of Chapter 8 of the Constitutional Bill of the Republic of Uzbekistan “On the prosecutor’s office” and the word “administrative detention” in Article 59 of the project (Act of the Prosecutor General’s Office of the Republic of Uzbekistan No. 27/2-129-23 dated May 4, 2023). The proposal served to ensure the implementation of legislation on the fight against torture as well as compliance with the rights and obligations established by law of those detained, imprisoned, administratively imprisoned persons, convicted persons, as well as persons applying other measures of criminal justice influence.

Approbation of research results. The main content and scientific results of the dissertation were tested at 4 scientific conferences, including scientific and practical conferences, round tables and seminars held at 2 international and 2 republican levels.

Publication of research results. A total of 15 scientific works on the topic of dissertation were published, including 8 scientific articles and abstracts in Scientific Journals (4 in Republican and 4 in foreign and 4 in conference collections), in which it was recommended to publish the main scientific results of dissertations.

Structure and size of the dissertation. The dissertation consists of an introduction, 3 chapters containing seven paragraphs, a conclusion, a list of used literature and an appendix. The total volume of the dissertation is 143 pages.

THE MAIN CONTENT OF THE DISSERTATION

In the introductory part of the dissertation work (annotation of the dissertation), the relevance and necessity of the research topic, correspondence of research to the main priorities of the development of science and technology of the republic, the level of study of the problem under study, the relevance of the dissertation topic to the research work of the higher education institution where the dissertation is completed, goals and objectives of research, object and subject, methods, scientific novelty and practical results, reliability of research results and their scientific and practical significance, introduction, approbation, publication of results, scope and structure of the dissertation are covered.

The first chapter of the dissertation, entitled “**Theoretical-legal basis of prosecutorial supervision over the implementation of legislation related to the fight against torture**”, consists of three paragraphs. The first paragraph is devoted to “*The essence and subject of prosecutorial supervision over the implementation of legislation related to the fight against torture*” and presents legislative norms related to the fight against torture, the concept and essence of prosecutorial supervision, the concepts of prosecutorial supervision over the implementation of legislation related to anti-torture. In this paragraph, the prosecutor’s supervision was analyzed by the scholars’ theories (B.H.Polatov, M.X.Rustambayev, Z.S.Ibragimov, F.X.Rakhimov, A.R.Davronov, A.B.Komilov, G.S.Berezovskaya, Yu.E.Vinokurov and B.V.Korobeynikov) which afterwards was enriched with the author’s own definition. In addition, it is revealed that the implementation of prosecutorial supervision over the implementation of legislation related to the provision of rights and freedoms of the individual in the implementation of

prosecutorial supervision, the fight against torture, is one of the pressing issues today and the subject of prosecutor's supervision over the implementation of legislation related to the fight against torture is revealed to be the calculation of activities related to the legal procedure of anti-crime activities of employees of the body engaged in pre- and while-investigation, inquiry, preliminary investigation and the body with the authority to carry out operational-search activities, procedural activities related to the implementation of legislation related to the fight.

The second paragraph of this chapter, titled "*Stages of development of prosecutorial supervision over the implementation of legislation on the fight against torture*", contains a list of articles on the history of the development of prosecutorial supervision and prevention of torture and other cruel, inhuman or degrading treatment and use of punitive types, legal literature, opinions of legal scholars (O.M.Madaliev, B.X.Polatov, G.R.Malikova, M.Makhbubov, Z.S.Ibragimov D.S.Dovudova, A.X. Saidov, SH.I.Zokirov, J.M.Shodiev, SH.M.Saidov, T.Reshetnikov) studied by legislative norms. As a result the issues of prosecutorial oversight have been covered by the fact that the legality of criminal investigation in 1917 -1922, with the fact that places of detention and supervision in one form or another were carried out by various bodies of state power and management, that the system of ensuring the rule of law that the Soviets and their authorities undertaken during that time did not justify itself, the fact that in 1922-1924 the regulation "On the state prosecutor's office" was approved, in 1924-1990 the Deputy people's commissar of Justice in the Uzbek SSR was simultaneously considered the prosecutor of the Republic, by 1936, the prosecutor's office of the Uzbek SSR was formed and, after the independence of Uzbekistan, a separate prosecutor's office system and the opinions of the above-mentioned scientists, as well as the first stage of prosecutor's supervision in the Republic of Uzbekistan with the legislative framework of the adoption of the law of December 9, 1992, the adoption of the law of August 29, 2001 "On the prosecutor's office" as its second stage in a new edition.

In addition, the supervision over the rights and freedoms of citizens, personal immunity and the prevention of crimes related to torture and the implementation of legislation was carried out by muhtasib, and the history of the development of the muhtasib institute was proven by the opinions of our scientists in history. Despite the fact that this tradition has undergone certain changes over the centuries, in general, the supervision function has not experienced a radical systematic change. It has been analyzed that the position of muhtasib was one of the important positions in public administration as well as distinguished from other positions by acting in accordance with sharia norms.

Organization of prosecutorial supervision over the implementation of legislation related to the fight against torture is further entrenched as the subject of prosecutorial supervision by the fact that the Republic of Uzbekistan joined the UN Convention against torture and other cruel, inhuman or degrading types of treatment and punishment on December 10, 1984, based on the resolution of the Supreme Assembly on August 31, 1995 and in 2003, a new revision of Article 235 of the Criminal Code¹⁴ established

¹⁴ The Law of the Republic of Uzbekistan dated November 11, 2003 "On changes and additions to certain legislation of the Republic of Uzbekistan". <https://lex.uz/uz/docs/36558?ONDATE=11.11.2003%2000#37236>

responsibility for torture and other cruel, inhuman or degrading treatment and the use of punitive types.

In the third paragraph of the dissertation, entitled “*Fundamentals of international and national legislation on the fight against torture*” President of the Republic of Uzbekistan remarked in his speech demonstrated in 46th session of the United Nations Human Rights Council that “Within the framework of the introduction of the National preventive mechanism for the prevention of torture, we will no longer allow any manifestations of torture that hit a person’s dignity on the ground, contrary to humanity”. The fact that he noted that “no matter when such crimes were committed, punishment is inevitable for them” and it was stated that these views of our president are important in improving the legislation in this direction.

In addition, focusing on international legal documents, documents on the protection of internationally accepted torture and other inhuman dignity from degrading treatment and crimes related to torture are considered as the most important documents aimed at guaranteeing the mental and physical inviolability of a person and the obligation to ensure the execution of these documents towards states became relevant in citing the importance of increasing the effectiveness of prosecutorial supervision over the implementation of legislation within the requirements of international standards on the Prevention of torture for law enforcement officers including the study of the “Universal Declaration of human rights” adopted by the United Nations on December 10, 1948, the international pact “On civil and political rights” by the UN General Assembly on December 16, 1966, the Declaration “On the protection of all persons from harsh cruel or degrading treatment and other types of punishment”, the “Convention against torture and other cruel, inhuman or degrading types of treatment and punishment”, which is one of the most important UN documents on an international scale adopted on 10 December 1984, Resolution 57/199 of the UN General Assembly on 18 December 2002, “Optional Protocol to the Convention against torture and other cruel, inhuman or degrading types of treatment and punishment”, “The European Convention on human rights” adopted in the 4th November, 1950, American Declaration of human rights and obligations in 1948, The “American Convention on human rights” of November 22, 1969, the “Inter-American Convention on the prevention and punishment of torture” of December 9, 1985 and other international legal documents.

The research work serves to improve prosecutorial supervision over the implementation of legislation related to the use of torture and other cruel, inhuman or degrading treatment and punishment types in national and international legal documents, to guarantee and protect the rights and freedoms of the individual.

It is justified by the author that the prosecutor’s office should carry out supervision over the implementation of legislation, and not just laws, at the time of their activities and duties analyzing the norms established in the legislation to prevent the use of torture and other forms of cruel, inhuman treatment of dignity and other forms of punishment by the national legislation, opinions were expressed on the procedural order for supervising the implementation of these norms by the prosecutor’s office, the legality of decisions made by the authorities that carry out the fight against crime, the activities of the authorities that accomplish the fight against crime to supervision the enforcement of laws.

The second chapter of the dissertation is entitled **“Issues of the organization of prosecutorial supervision over the implementation of legislation related to the fight against torture”** and contains three paragraphs. The first paragraph, titled *“Goals and objectives of the prosecutor’s supervision over the implementation of legislation related to the fight against torture”* highlights the state of prosecutor’s supervision over the implementation of legislation related to the fight against torture and focuses on the prosecutor general of the Republic of Uzbekistan and subordinate prosecutors have supervision over the specific and uniform implementation of laws. In particular, Article 4 of the law “On the prosecutor’s office” defines the main tasks such as carrying out the activities of the prosecutor’s office and conducting supervision over the implementation of the laws.

In particular, it is substantiated that relying on the opinions put forward by scientists (N.V.Grigorieva, D.A.Lobachev, A.B.Komilov, D.SH.Ibragimov, D.Y.Khabibullayev, B.H.Polatov, O.M.Madaliev, Yu.E.Vinokurov, O.P.Kopylova, S.L.Alekseyev, N.R.Votchel, A.Shodiyev), the duties of the prosecutor’s supervision are divided into three categories considering the prosecutor’s supervision over the implementation of legislation related to the fight against torture is one of the special tasks of it which expresses the meaning of ensuring the rights and freedoms of citizens, the legitimate interests of the individual in places where their freedom is limited, preventing the use of torture and other cruel, inhuman or degrading treatment and other forms of punishment, as well as ensuring the implementation of laws.

The purpose of the prosecutor’s supervision over the implementation of legislation related to the fight against torture is to strengthen legality in this area, ensure the rule of law, as well as protect the rights and interests of citizens, fight and prevent crime.

The importance of conducting pre-investigation after a review of such petitions by the investigative networks of the provinces and their equivalent prosecutors was analyzed in order to ensure the impartiality of the investigator of the same area when viewing applications related to torture committed in a particular area, as well as to protect against overexposure and conduct a pre-investigation examination by employees with sufficient qualifications.

In turn, it was justified that when the symptoms of the crime of torture and other cruel, inhuman or degrading treatment and the use of punitive types are evident, a criminal case is immediately initiated, on the basis of the expediency of conducting preliminary investigative actions by the regions and their equivalent prosecutor’s office investigative networks.

The second paragraph is called *“Specifics of the organization of prosecutorial supervision over the implementation of legislation on the fight against torture”* which in fact focuses that the organization of prosecutorial supervision over the implementation of legislation related to the fight against torture also has its own characteristics, just as the organization of prosecutorial supervision has its own characteristics:

firstly, if the prosecutor’s supervision requires the main part of the activities of several state bodies in supervising the legislative enforcement of criminal enforcement agencies and ensuring their prevention and legislative enforcement of torture in this area, then the prosecutor’s supervision carried out in the implementation of

legislation and supervision over the legislative implementation of guarantees of rights and freedoms of humans;

secondly, the activities of the prosecutor's office in penal institutions, investigative and temporary detention centers, special receptions, internal affairs buildings and the proper organization of protection and supervision of the rights of participants in a criminal case in the pre-investigation examination, inquiry and investigation processes have been analyzed.

In addition, today's state of the prosecutor's supervision in the fight against torture and the prevention of torture is featured to prevent the use of torture and other cruel, inhuman or degrading treatment and types of punishment, and as another subject of this crime, only pre-investigation examination bodies must also respect the honor and dignity of individuals, ensure the rights and freedoms of citizens, personal immunity, and, moreover, the interests of procedural participants involved in a criminal case.

The third paragraph, titled *"Issues of cooperation in the implementation of prosecutorial supervision over the implementation of legislation related to the fight against torture"*, states that issues of cooperation in the implementation of prosecutorial supervision over the implementation of legislation related to the fight against torture are of particular importance.

In the implementation of supervision over the implementation of legislation related to the fight against torture, the cooperation of prosecutor with an authorized person of Oliy Majlis of the Republic of Uzbekistan for human rights (Ombudsman) was noted. It also strengthens prosecutorial supervision and public supervision over issues of the fight against torture, identified shortcomings in this regard and the implementation of legislation related to their elimination through the media, covering information on investigative actions in a criminal case, ensuring openness on these crimes, preventing and combating torture and the implementation of legislation related to the fight against torture. It has been analyzed by citizens to lead to increased attitude and confidence in the activities of law enforcement agencies.

It is justified that in order to ensure the implementation of legislation related to the fight against torture as video surveillance devices of investigative detention centers, temporary detention centers are connected to the Department of the region and their equivalent internal affairs bodies, providing special receptions and internal affairs with video surveillance cameras for the entrances of buildings and integrating these video surveillance devices into the Departments of the regional and equivalent internal affairs bodies, as well as setting the shelf life of video surveillance at least 6 months assist to the partial provision of citizens' rights and freedoms, the use of torture and other cruel, inhuman, degrading and other punishments, and helping to prevent the destruction of evidence.

The third chapter of the research work is entitled **"Issues of improvement of prosecutor's supervision over the implementation of legislation related to the fight against torture"**, and the first paragraph of this chapter is named *"Comparative-legal analysis of supervision over the implementation of legislation related to the fight against torture in the prosecutor's office of foreign countries"* which analyzes improving prosecutorial supervision over the implementation of legislation related to the fight

against torture, problems of prosecutorial supervision and the implementation of legislation related to the fight against torture, specific aspects of prosecutorial supervision over the activities of prosecutorial bodies of a number of advanced countries, including France, USA, Germany, Latvia, Georgia, Ukraine, Belarus, as well as a number of CIS countries.

Also, according to the author, in the legal literature it was analyzed by scientists (Tobios Kelly, A.N.Akhpanov, Z.S.Ibragimov, O.Toshev, A.Allamuratov, D.Khamdamova, SH.I. Zokirov) that the activities of the prosecutor's bodies of foreign countries were studied in four groups, which differed from the activities and competence of the prosecutor's office in the state systems.

We can see that some of the experiences of foreign countries are reflected in the legal system of our country. In particular, the provision of rights and freedoms of the individual and the conduct of prosecutorial supervision over the implementation of legislation related to the fight against torture are cited as the subject of prosecutorial supervision over the implementation of legislation by the bodies carrying out the fight against crime. Also, in foreign countries: France, Germany, Georgia, Ukraine, even if the prosecutor's office is under the jurisdiction of justice, the laws of the "Prosecutor's office" establish the procedure for conducting prosecutorial supervision over the activities of the bodies carrying out the fight against crime. That is, when conducting prosecutorial supervision over the implementation of legislation related to the fight against torture, it carries out operational-search activities, pre-investigation examination, inquiry, supervision over the implementation of legislation in the process of investigation. The subject of prosecutorial supervision in the legislation of these states is also presented in the legislation of our country in conducting prosecutorial supervision over legislative implementation in investigative offices, temporary detention centers, special reception rooms, internal affairs buildings and penal institutions in order to ensure the rights and interests of citizens and prevent torture.

It is worth saying that in some CIS countries, namely in the states of the Russian Federation, Kyrgyzstan, Tajikistan, orders of the prosecutor General were adopted to prevent special torture and other cruel, inhuman-degrading treatment and the use of other types of punishment. The investigation of applications for torture in Kazakhstan and the implementation of prosecutorial supervision through a directive on their prevention have been studied.

It should be noted that strengthening the subject and powers of the supervision of the prosecutor's office in carrying out supervision over the performance of their duties by employees of state bodies acting to ensure the rights and interests of citizens and to prevent torture and other cruel, inhuman dignity and other punishments were justified with the orders of the national legislation and the prosecutor General's office of the Republic of Uzbekistan "On the effective provision of the rule of law in the fight against crime, inquiry, preliminary investigation and operational-search activities and the protection of the rights and freedoms of the individual" and "On improving the effectiveness of supervision over compliance with the law in the execution of court documents and documents of other bodies and in the possession of those imprisoned".

The second paragraph, titled *“Issues of improving the effectiveness of prosecutorial supervision over the implementation of legislation related to the fight against torture”* substantiated the expediency of strengthening prosecutorial measures in strengthening the effectiveness of prosecutorial supervision in the field of ensuring the rights and freedoms of citizens.

In particular, the establishment of prosecutorial hotlines in investigative detention centers, temporary detention centers, special receptions, penal institutions and MIA buildings, as well as the creation of such opportunities as downloading each appeal in an audio manner, are justified in increasing efficiency in ensuring prosecutorial supervision.

It is justified that, in particular, in order to prevent torture, to ensure that a person caught on suspicion of crimes which is not exposed is personally interviewed within 24 hours by the district, city attorney or his deputy strengthens the prevention of torture and prosecutorial supervision and the fact that the procedural action in the form of testimony should be carried out during the pre-investigation examination, as well as before the interrogation investigative action.

In addition, an interview with the defendant in person is conducted by the district, city attorney or his deputy before confirming the indictment by examining criminal cases in which the unrepentant grave and extreme crimes come with the indictment was justified that the prevention of torture, the fight against crime, the verification of the acceptable nature of the evidence will help regarding that.

In turn, improving staff skills and externalizing training modules to combat torture for future law enforcement officers and to prevent torture and other forms of cruel, inhuman dignity and other forms of punishment will empower the supervision of the prosecutor today.

CONCLUSION

As a result of the research work carried out within the framework of the dissertation *“Issues of improving the prosecutor’s supervision over the implementation of legislation on combating torture”*, the following conclusions were drawn that were of theoretical and scientific-practical importance:

I. Scientific-theoretical proposals and conclusions

The concept of *“Prosecutorial supervision”* was expanded and an author’s definition of the concept of the subject of prosecutorial supervision over the implementation of legislation related to the fight against torture was developed:

1. Prosecutor’s supervision is an activity aimed at timely identification of violated rights of citizens in order to protect their rights and legitimate interests, restoration of violated rights, taking measures to bring guilty persons to responsibility for the law, as well as preventing violations and ensuring the rule of law.

2. The subject of prosecutor’s supervision over the implementation of legislation related to the fight against torture is the body engaged in pre-investigation examination, inquiry, preliminary investigation and the body with the authority to carry out operational-

search activities, as well as the activities of employees of state bodies regarding compliance with legislation related to the fight against torture.

3. It was justified that it is necessary to provide law enforcement officers with appropriate training materials and information on the study of international legal standards and requirements for the prevention of torture and other cruel, inhuman dignity in discriminatory treatment and other crimes.

4. The prevention of crimes of torture and other cruel inhuman or degrading treatment and the use of punitive types was based on the fact that they are reflected in the special tasks of the prosecutor's supervision.

5. It was justified that the specifics of the organization of prosecutorial supervision over the implementation of legislation on the fight against torture are manifested in the following:

first, supervise the compliance of crime enforcement agencies with the legislation and coordinate their anti-crime activities;

secondly, this type of supervision is manifested in the organization of prosecutor's supervision over the implementation of legislation related to the pre-investigation, investigation, inquiry, operational-investigation and compliance of employees of operational search bodies with the rights and freedoms of the individual and the fight against torture in penal institutions, investigative and temporary detention centers, special receptions.

II. Proposals and recommendations for improving the current legislation of the Republic of Uzbekistan

1. Chapter 4 of the law of the Republic of Uzbekistan "On prosecutor's office" is proposed in the following edition:

*Supervision over compliance with the law at the places of detention, detention of those who were detained, during the execution of **administrative detention**, criminal penalties and other measures of criminal legal influence.*

2. A proposal to amend and add to Article 17 of the Criminal executive code of the Republic of Uzbekistan called "Prosecutorial supervision", and state it in the following edition will be put forward:

*"During the implementation of penalties and other criminal justice measures, supervision over compliance with the **legislation** is exercised by the prosecutor general of the Republic of Uzbekistan and its subordinate prosecutors in the manner prescribed by law".*

3. Article 29 of the law of the Republic of Uzbekistan on the procedure for serving administrative detention is proposed in the following edition:

*The use of physical force and the use of special means should not lead to the infliction of suffering on persons who have been administratively imprisoned, nor to **torture and** other cruel, inhuman or degrading repression of human dignity. The prosecutor is immediately notified of each case of damage caused by the use of physical force or the use of special means to the life and health of persons detained in administrative custody and other persons.*

4. Paragraph 5 of section 4 of the order of the prosecutor general of the Republic of Uzbekistan dated February 22, 2016 “On the effective provision of the rule of law and the protection of the rights and freedoms of the individual in the fight against crime, inquiry, preliminary investigation and operational-search activities” is proposed to be described in the following edition:

“Pre-investigation on applications for crimes of torture and other cruel, inhuman or degrading treatment and the use of punitive types is carried out by the investigative networks of the provinces and their equivalent prosecutors”.

Paragraph 3 of section 4.14 of this order is proposed to be stated in the following edition:

When the symptoms of the crime of torture and other cruel, inhuman or degrading treatment and the use of punitive types are evident, an immediate criminal case is initiated, ensuring that preliminary investigative actions are carried out by the investigative networks of the provinces and their equivalent prosecutors.

Paragraph 2 of section 7.6 of this order is proposed to be stated in the following edition:

*Pending investigation into each case involving the detection of bodily injuries in persons held in detention and **temporary detention centers**, and decisions are made under the requirements of criminal procedural legislation.*

5. Part 1 of Article 17 of the Criminal Procedure Code of the Republic of Uzbekistan is proposed in the following edition:

*The judge, the prosecutor, the investigator and the inquirer, the official **of the examining body** before the investigation are obliged to respect the honor and dignity of the persons participating in the case.*

6. Part 2 of Article 215 of the Criminal Procedure Code of the Republic of Uzbekistan is proposed to include the following addition:

Persons held in custody, or placed in a medical facility are required to undergo a medical examination.

III. Conclusions and recommendations aimed at improving prosecutorial supervision over the implementation of legislation related to the fight against torture

1. Providing special receptions and internal affairs with video surveillance cameras for the entrances of buildings and integrating these video surveillance devices into the departments of the regional and equivalent internal affairs bodies, as well as setting the shelf life of video surveillance at least 6 months is essential as video surveillance devices of investigative detention centers, temporary detention centers are connected to the Department of the region and their equivalent internal affairs bodies.

2. It is justified that in cases of torture in the prevention and fight against torture, it is necessary to inform the public in a criminal case through the media, to ensure openness in this crime.

3. In investigative detention centers, temporary detention centers, special receptions, penal institutions and MIA buildings, it is necessary to create such

opportunities as the establishment of prosecutor's hotlines and downloading each appeal in the audio style.

4. It is proposed that torture and other cruel, inhuman or dignity are strictly prohibited from taking and questioning persons caught as suspects into rooms without video surveillance devices.

5. It is proposed that on the purpose of preventing crimes such as discriminatory treatment, persons caught as suspects for grave and extreme crimes not exposed within 24 hours are personally interviewed by the district, city attorney, or deputy to investigate cases of compliance with the law in actions related to the seizure, as well as introducing the practice of conducting an interview with the defendant in person by the district, city attorney or deputy before confirming the indictment by examining criminal cases in which the unrepentant grave and extreme crimes come with the indictment.

6. It was justified that on the floors where the investigation rooms are located, as well as on the upper floors of multi-story law enforcement agencies for security reasons, it is necessary to install security bars.

7. Organization of compulsory training courses at the Law enforcement academy on such topics as "International legal documents on the fight against torture and responsibility", "Investigation of crimes related to torture" and "Prosecutor's supervision over the implementation of legislation on the fight against torture" was justified by the fact that the employees of the prosecutor's office and the future law enforcement agency serve to cultivate qualified personnel in the prevention of torture and other cruel, inhumane dignity discriminatory treatment and other types of punishment.

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РЕСПУБЛИК УЗБЕКИСТАН**

**ПРАВООХРАНИТЕЛЬНОЙ АКАДЕМИИ
РЕСПУБЛИКИ УЗБЕКИСТАН**

КАДИРОВА БАРНО ТУРАНБОЙ КИЗИ

**ВОПРОСЫ СОВЕРШЕНСТВОВАНИЯ ПРОКУРОРСКОГО НАДЗОРА
ЗА ИСПОЛНЕНИЕМ ЗАКОНОДАТЕЛЬСТВА О БОРЬБЕ С ПЫТКАМИ**

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диссертации доктора философии (PhD) по юридическим наукам**

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ВВЕДЕНИЕ (аннотация к диссертации доктора философии (PhD))

Целью исследования является совершенствование национального законодательства, повышение эффективности прокурорского надзора и разработка научно-теоретических и практических выводов, предложений и рекомендаций по данной теме путем выявления проблем прокурорского надзора за исполнением законодательства, связанного с борьбой с пытками, и путей их устранения.

Объектом исследования являются социальные отношения, связанные с организацией прокурорского надзора за исполнением законодательства, связанного с борьбой против пыток.

Научная новизна исследования заключается в следующем:

Обосновано предложение о том, что судья, прокурор, следователь, дознаватель, должностное лицо органа дознания должны также уважать честь и достоинство лиц, участвующих в деле, это усилит защиту права и законные интересы участников уголовного процесса, а также поднять обязанности органов дознания в этом отношении на принципиальный уровень;

порядок рассмотрения и разрешения заявлений и сообщений о совершении преступления следственными органами оперативно-розыскной деятельности, основанной на надзоре прокурора, законодательно установленного порядка проведения доследственной проверки, дознания и предварительного следствия послужил закреплению в законодательстве как предмет надзора;

выдвинуто предложение об законодательном усилении порядка возмещения материального и морального вреда жертвам пыток;

надзор за соблюдением прав и обязанностей лиц, которые лишены свободы, в местах содержания под стражей, при исполнении уголовных наказаний и других мер уголовно-правового воздействия, а также административное задержание определены в качестве предмета прокурорского надзора.

Внедрение результатов исследования.

Предложение по обеспечению прав и свобод граждан и предотвращению пыток и других жестоких, бесчеловечных или унижающих достоинство видов обращения и других наказаний учтено при разработке статьи 7 (неприкосновенность личности) в новой редакции проекта Уголовно-процессуального кодекса Республики Узбекистан, а также при разработке статьи 8 под названием “Уважение чести и достоинства личности” (Акт №27/2-53-22 Генеральной прокуратуры Республики Узбекистан от 29 марта 2022 года). Данное предложение послужило обеспечению прав и законных интересов личности, а также обеспечению уважения со стороны правоохранительных органов.

Предложение о порядке рассмотрения и разрешения заявлений и сообщений о совершении преступления следственными органами до начала следствия, а также надзор за законностью вынесенных постановлений относились к сфере прокурорского надзора учтено при разработке статьи 33 нового проекта Уголовно-процессуального кодекса Республики Узбекистан (Акт №27/2-53-22 Генеральной прокуратуры Республики Узбекистан от 29 марта 2022 года). Эти предложения послужили усилению прокурорского надзора за исполнением законодательства следственными органами.

Предложения, разработанные в рамках возмещения вреда потерпевшим от преступлений, связанных с применением пыток, к статье 1 Закона № ЗРУ-761 от 29 марта 2022 года Республики Узбекистан “О внесении дополнений в Гражданский Кодекс Республики Узбекистан, направленных на совершенствование порядка возмещения ущерба, причиненного жертвам пыток”, части первой статьи 991, а также в третьем введении статьи 1021 действующего Гражданского кодекса были использованы слова “пытки и другие жестокие, бесчеловечные или унижающие достоинство виды обращения и применение карательных мер” (Акт № 01/1346 Национального центра по правам человека Республики Узбекистан от 27 декабря 2022 года). Это предложение послужило обеспечению соблюдения законодательства, связанного с борьбой против пыток, а также защите законных интересов жертв.

Слово «административное заключение» учтено в названии главы 8 и при разработке статьи 59 проекта Конституционного закона Республики Узбекистан «О прокуратуре» (Акт № 27/2-129-23 Генеральной прокуратуры Республики Узбекистан от 4 мая 2023 г.). Данное предложение направлено на обеспечение применения законодательства, связанного с борьбой против пыток, а также соблюдения установленных законом прав и обязанностей лиц, задержанных, находящихся в заключении, подвергнутых административному лишению свободы, осужденных и лиц, применяющих другие меры воздействия уголовного правосудия.

Апробация результатов исследования. Основное содержание и научные результаты исследования апробированы на 4 научных конференциях, в том числе на 2 международных и 2 республиканских научно-практических конференциях, круглых столах и семинарах.

Опубликованность результатов исследования. Всего по теме исследования опубликовано 15 научных работ, в том числе 8 научных статей (4 в зарубежных изданиях) и 7 научных статей и тезисов в сборниках конференций.

Структура и объём диссертации. Диссертация состоит из введения, трёх глав, заключения, списка использованной литературы и приложений. Объём диссертации составляет 143 страниц.

ЭЪЛОН ҚИЛИНГАН ИШЛАР РЎЙХАТИ
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