

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

TOSHKENT DAVLAT YURIDIK UNIVERSITETI

MAMANAZAROV SARDOR SHUXRATOVICH

BIG DATANING FUQAROLIK-HUQUQIY REJIMI

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

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

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Ilmiy rahbar:

Rashidov Komil Kayumovich
yuridik fanlar doktori, professor

Rasmiy opponentlar:

Gulyamov Said Saidaxrarovich
yuridik fanlar doktori, professor

Safoyeva Sadoqat Musoyevna
yuridik fanlar nomzodi

Yetakchi tashkilot:

**O‘zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasi
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I.R. Rustambekov

Ilmiy darajalar beruvchi Ilmiy kengash raisi, yuridik fanlar doktori, professor

D.Y. Xabibullayev

Ilmiy darajalar beruvchi Ilmiy kengash kotibi, yuridik fanlar doktori, professor

B.K.Xodjayev

Ilmiy darajalar beruvchi Ilmiy kengash huzuridagi Ilmiy seminar raisi, yuridik fanlar doktori, professor

KIRISH (falsafa doktori (PhD) dissertatsiyasi annotatsiyasi)

Dissertatsiya mavzusining dolzarbligi va zarurati. Dunyoda Big Data texnologiyalari rivojlanishi bilan ma'lumotlarning hajmi va xilma-xilligi misli ko'rilmagan darajada oshib bormoqda. Tadqiqotlariga ko'ra, 2023-yilga kelib Big Data va tahliliy yechimlar bozori 274 milliard dollarga yetgan¹. O'z navbatida, Big Data, uning elementlari va Big Data tahlili natijasida yaratilgan yangi bilim va ma'lumotlarning intellektual mulk obyektlari sifatida muhofaza qilish dolzarb masalaga aylanib bormoqda. Big Data loyihalarida turli manbalardan olingan ma'lumotlar birlashtiriladi va qayta ishlanadi, bu esa intellektual mulk huquqlarini aniqlash va himoya qilishda muammolarni keltirib chiqaradi. Shu sababli, ushbu muammolarni bartaraf etish uchun Big Data kontekstida intellektual mulk huquqlarini tartibga soluvchi yangi yanada samarali huquqiy mexanizmlarni ishlab chiqishga yo'naltirilgan tadqiqotlarni olib borishni hozirgi tezkor axborot davri talab etmoqda.

Bashoratlarga ko'ra, 2025-yilga kelib global ma'lumotlar hajmi 175 zettabaytga yetishi kutilmoqda². Ushbu ma'lumotlarning sezilarli qismi, turli baholashlarga ko'ra, 20 foizdan 30 foizgachasini shaxsiy ma'lumotlar tashkil etadi³. O'zbekistonda ham raqamli texnologiyalar jadal rivojlanishi bilan Big Data maqsadlarida to'planayotgan ma'lumotlar, ayniqsa, shaxsiy ma'lumotlar hajmi keskin ortib bormoqda. O'zbekiston Respublikasi Axborot texnologiyalari va kommunikatsiyalarini rivojlantirish vazirligi ma'lumotlariga ko'ra, 2020-yil oxirida vazirlik va idoralarning 318 ta axborot tizimi va 84 ta ma'lumotlar bazasida 17 million 822 ming fuqaroning shaxsiy ma'lumotlari mavjud bo'lgan⁴. Bu kabi shaxsiy ma'lumotlarning katta hajmda to'planishi va tahlil qilinishi natijasida fuqarolarning shaxsiy hayoti daxlsizligi, shaxsiy ma'lumotlar maxfiyligi va himoyasi xavf ostida qolmoqda. Shu bois, mamlakatimizda subyektlarning shaxsiy ma'lumotlari maxfiyligini, qonuniy himoyasini ta'minlashga oid masalar dolzarb hisoblanib, tegishli tadqiqotlar olib borishni talab qiladi.

Statistik ma'lumotlarga ko'ra, dunyo miqyosida har soniyada 2,5 million gigabayt ma'lumotlar yaratiladi va bu ko'rsatkich har yili 40% ga oshmoqda⁵. Ma'lumotlarning eksponentsial o'sishi ularni tahlil qilish va ishlov berishning yangi usullarini talab qiladi. Big Data texnologiyalari bu boradagi muhim yechimlardan biri bo'lib, ular terabaytlab va hatto petabaytlab ma'lumotlarni real vaqt rejimida analiz qilish imkonini beradi. O'zbekistonda ham Big Data texnologiyalarini joriy qilish va rivojlantirish davlat siyosatining muhim yo'nalishi sifatida belgilangan. Xususan, O'zbekiston Respublikasi Prezidentining 2020-yil 5-oktabrdagi PF-6079-

¹ <https://www.oxfordcorp.com/en/the-big-small-of-big-data-and-why-it-matters/>

² Statista, "Volume of data/information created, captured, copied, and consumed worldwide from 2010 to 2025", 2021. <https://www.statista.com/statistics/871513/worldwide-data-created/>

³ TechJury, "How Much Data Is Created Every Day in 2022?", 2022. <https://techjury.net/blog/how-much-data-is-created-every-day/>

⁴ O'zbekiston Respublikasi Axborot texnologiyalari va kommunikatsiyalarini rivojlantirish vazirligi, "Davlat organlarining axborot tizimlari va ma'lumotlar bazalarida fuqarolarning shaxsiy ma'lumotlari soni", 2021. <https://mitc.uz/uz/pages/232-davlat-organlarining-axborot-tizimlari-va-malumotlar-bazalarida-fuqarolarning-shaxsiy-malumotlari-soni>

⁵ Domo, "Data Never Sleeps 8.0", 2020. <https://www.domo.com/learn/infographic/data-never-sleeps-8>

son Farmoni bilan tasdiqlangan “Raqamli O‘zbekiston - 2030” strategiyasi¹da, O‘zbekiston Respublikasi Prezidentining “O‘zbekiston Respublikasining fuqarolik qonunchiligini takomillashtirish chora-tadbirlari to‘g‘risida”gi Farmoyishida², shuningdek, 2021-yil 17-fevraldagi “Sun‘iy intellekt texnologiyalarini jadal joriy etish uchun shart-sharoitlar yaratish chora-tadbirlari to‘g‘risida”gi PQ-4996-son³ hamda 2021-yil 26-avgustdagi “Sun‘iy intellekt texnologiyalarini qo‘llash bo‘yicha maxsus rejimni joriy qilish chora-tadbirlari to‘g‘risida”gi PQ-5234-son⁴ qarorlarida Big Data infratuzilmasini rivojlantirish, uning huquqiy tartibga solinishi ta‘minlash, ma‘lumotlarni zamonaviy usullar bilan ishlov berish markazlarini tashkil etish kabi vazifalar belgilanganki, bu ham mavzu dolzarbligidan dalolat beradi.

O‘zbekistonda shaxsiy ma‘lumotlarni himoya qilish masalasi ham dolzarb ahamiyat kasb etmoqda. 2019-yil 2-iyulda “Shaxsga doir ma‘lumotlar to‘g‘risida”gi qonun qabul qilingan bo‘lib⁵, mazkur qonunga ko‘ra, shaxsga doir ma‘lumotlar to‘plash, ishlov berish, uzatish hamda ulardan foydalanishni tartibga soluvchi normalar belgilangan. Lekin, Big Data texnologiyalari jadal rivojlanib borayotgan bir sharoitda qonundagi normalar yetarli emas. Big Data elementlarining huquqiy maqomi, ularni himoya qilish mexanizmlari, ma‘lumotlardan foydalanish masalalari ham zamonaviy yondashuvlarni talab qiladi.

Shu nuqtai nazardan, bugungi kunda O‘zbekistonda Big Dataning rivojlanishi, ulardan foydalanish jarayonida shaxsiy ma‘lumotlar himoyasini ta‘minlash hamda uning huquqiy asoslarini takomillashtirish muhim ahamiyat kasb etadi. Bunda xalqaro standartlar va eng yaxshi amaliyotlarni hisobga olish zarur. Misol uchun, Yevropa Ittifoqining Umumiy ma‘lumotlarni himoya qilish reglamenti (GDPR) bugungi kunda xalqaro miqyosda etalon sifatida e‘tirof etiladi⁶.

Xorijiy mamlakatlarda ham Big Data bilan bog‘liq qonunchilik va himoya mexanizmlari faol rivojlantirilmoqda. AQShda Federal savdo komissiyasi tomonidan “Adolat Big Data: algoritmlar, diskriminatsiya va maxfiylik” yo‘riqnomasi ishlab chiqilgan⁷. Xitoy Xalq Respublikasida ham 2021-yil 1-noyabrdan “Shaxsiy ma‘lumotlarni himoya qilish to‘g‘risida”gi Qonun kuchga

¹ O‘zbekiston Respublikasi qonun hujjatlari milliy bazasi, ""Raqamli O‘zbekiston - 2030" strategiyasini tasdiqlash va uni samarali amalga oshirish chora-tadbirlari to‘g‘risida”gi O‘zbekiston Respublikasi Prezidentining Farmoni, 2020. <https://lex.uz/docs/5031048>

² O‘zbekiston Respublikasi Prezidentining farmoyishi, 05.04.2019 yildagi F-5464-son <https://lex.uz/uz/docs/-4272621>

³ O‘zbekiston Respublikasi qonun hujjatlari milliy bazasi, “Sun‘iy intellekt texnologiyalarini jadal joriy etish uchun shart-sharoitlar yaratish chora-tadbirlari to‘g‘risida”gi PQ-4996-son O‘zbekiston Respublikasi Prezidentining Qarori, 2021. <https://lex.uz/docs/-5297046>

⁴ O‘zbekiston Respublikasi qonun hujjatlari milliy bazasi, “Sun‘iy intellekt texnologiyalarini qo‘llash bo‘yicha maxsus rejimni joriy qilish chora-tadbirlari to‘g‘risida”gi PQ-5234-son O‘zbekiston Respublikasi Prezidentining Qarori, 2021. <https://lex.uz/docs/-5603319>

⁵ O‘zbekiston Respublikasi qonun hujjatlari milliy bazasi, "Shaxsga doir ma‘lumotlar to‘g‘risida”gi O‘zbekiston Respublikasi Qonuni, 2019. <https://lex.uz/docs/4396428>

⁶ Yevropa Ittifoqi, "General Data Protection Regulation (GDPR)", 2018. <https://gdpr-info.eu/>

⁷ Federal Trade Commission, "Big Data: A Tool for Inclusion or Exclusion?", 2016. <https://www.ftc.gov/system/files/documents/reports/big-data-tool-inclusion-or-exclusion-understanding-issues/160106big-data-rpt.pdf>

kirdi¹. Yaponiya va Singapurda ma'lumotlar muhofazasi borasida mukammal qonunchilik bazasi va amaliyot mavjud².

Yuqoridagi raqamlar va misollardan ko'rinib turibdiki, mamlakatimizda Big Data tahlillarini qo'llash va ma'lumotlar himoyasi bilan bog'liq munosabatlarni zamonaviy talab darajasida tartibga solish bilan bog'liq dolzarb masalalarni o'rganishni taqozo etadi. O'zbekistonning axborotlashtirish va raqamli iqtisodiyot sohasida global trendlar va standartlarga mosligini ta'minlash ijtimoiy-iqtisodiy taraqqiyotimizning muhim omili hisoblanadi.

Tadqiqotning respublika fan va texnologiyalari rivojlanishining ustuvor yo'nalishlariga mosligi. Dissertasiya tadqiqoti "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. Ma'lumki, Big Data va uning huquqiy tartibga solinishi masalalari so'nggi yillarda xorijlik va mahalliy olimlar tadqiqotlarida keng o'rin egallagan. Jumladan, M.Mandel va S.Barth ilmiy asarlarida Big Dataning iqtisodiyot va biznes sohasidagi ahamiyati ko'rib chiqiladi³. J.Ginsburg, J.Drexl, M.Leistner, Julie E.Cohen, William M. Martin singari olimlar Big Dataga oid mulkiy huquqlar va intellektual mulk masalalarini tadqiq etishgan⁴ ⁵. V.Mayer-Shonberger, K.Kukyer, N.Purtova va P. M.Schwartzlarning asarlarida esa Big Data doirasida shaxsiy ma'lumotlar himoyasining muammolari va istiqbollari, L.Vasilevskaya⁶ va I.Z.Ayusheeva⁷lar asarlarida Big Dataning fuqarolik huquqiy tabiati yoritiladi⁸.

O'zbekistonda milliy huquq tizimida intellektual mulkning umumiy jihatlari H.Rahmonqulov, O.Oqyulov, S. Gulyamov, I.Rustambekov, N.Imomov, I.Nasriyev, va boshqa olimlar tomonidan o'rganilgan.

Mahalliy olimlardan S.Gulyamov, I.Rustambekov, Q.Mehmonov, X.Paluaniyazov, N.Raimova, N.Xatamova, S.Safoyeva, Z.Akramxodjaeva,

¹ People's Congress of the People's Republic of China, Personal Information Protection Law, 2021

<https://personalinformationprotectionlaw.com/>

²Yaponiya hukumati, "Japan's Data Strategy", 2021. https://www.digital.go.jp/assets/contents/node/basic_page/field_ref_resources/0f321c23-517f-439e-9076-5804f0a24b59/20210901_en_05.pdf

³ M.Mandel, "Beyond Goods and Services: The Need for Innovation in Data and Services", 2013. https://www.progressivepolicy.org/wp-content/uploads/2012/10/10.2012-Mandel_Beyond-Goods-and-Services_The-Unmeasured-Rise-of-the-Data-Driven-Economy.pdf

⁴ J.Drexl, "Designing Competitive Markets for Industrial Data - Between Propertisation and Access", 2017. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2862975

⁵ Leistner, Matthias and Antoine, Lucie, IPR and the Use of Open Data and Data Sharing Initiatives by Public and Private Actors (May 3, 2022). Study commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the Committee on Legal Affairs 2022, available at: [https://www.europarl.europa.eu/thinktank/en/document/IPOL_STU\(2022\)732266](https://www.europarl.europa.eu/thinktank/en/document/IPOL_STU(2022)732266), Available at SSRN: <https://ssrn.com/abstract=4125503> or <http://dx.doi.org/10.2139/ssrn.4125503>

⁶ Василевская Л. Ю., Подузова Е. Б., Тасалов Ф. А. Цифровизация гражданского оборота: Big Data в механизме гражданско-правового регулирования (цивилистическое исследование) : монография : в 5 т. Т. 5 / отв. ред. Л. Ю. Василевская. М. : Проспект, 2023. С. 13-14.

⁷ Аюшеева И. З. Большие данные: проблемы определения гражданско-правового режима. Lex russica. 2023. Т. 76. № 10. С. 125-134. DOI: 10.17803/1729-5920.2023.203.10.125-134

⁸ V.Mayer-Shönberger, K.Cukier, "Big Data: A Revolution That Will Transform How We Live, Work, and Think", 2014. <https://academic.oup.com/aje/article/179/9/1143/2739247>

S.Bozarov, B.Musayev¹ va boshqalarning tadqiqotlarida Big Data, ma'lumotlar bazasi, sun'iy intellekt va ma'lumotlar muhofazasining ayrim jihatlari o'rganilgan. Ammo, yuqorida zikr etilgan va mavzuga daxldor bo'lgan manbalarning aksariyati tor doirada biror-bir jihat bo'yicha muammoni tahlil qilgan, xolos. Olib borilayotgan tadqiqotda esa muammo kompleks ravishda, ya'ni, huquqiy va amaliy jihatdan o'rganilishi ko'zda tutilgan.

Dissertatsiya tadqiqotining dissertatsiya bajarilgan ilmiy tashkilot yoki ta'lim muassasasining ilmiy-tadqiqot ishlari rejalari bilan bog'liqligi. Tadqiqot ishi Toshkent davlat yuridik universiteti ilmiy tadqiqot ishlari rejasining "Big Data (ma'lumotlar)ning fuqarolik-huquqiy tabiati va Big Data doirasida ma'lumotlarni himoya qilishni huquqiy ta'minlash masalalari" nomli mavzusi doirasida bajarilgan.

Tadqiqotning maqsadi Big Data sohasidagi huquqiy munosabatlarning fuqarolik-huquqiy tabiatini aniqlash hamda ularni huquqiy tartibga solishning ilmiy konsepsiyasini ishlab chiqish, subyektlarning ma'lumotlari himoyasi va maxfiylikni huquqiy ta'minlash bo'yicha tegishli taklif-tavsiyalar tayyorlashdan iborat.

Tadqiqotning vazifalari quyidagilardan iborat:

Big Data tushunchasi, mohiyati va o'ziga xos xususiyatlarini huquqiy rejimini fuqarolik-huquqiy jihatdan tahlil qilish, ularning fuqarolik huquqi obyektlari tizimidagi o'rnini aniqlash.

Big Data elementlarining mulkiy maqomini belgilash, Big Dataga nisbatan mulkiy huquqlar mazmuni hamda doirasini ochib berish, ularni identifikatsiya qilish va fuqarolik muomalasiga kiritish mexanizmlarini ishlab chiqish.

Big Data tarkibidagi maxfiy ma'lumotlarni huquqiy himoya qilish asoslarini aniqlash;

Shaxsiy ma'lumotlar va Big Data o'rtasidagi o'zaro aloqadorlikni o'rganish, ularni himoya qilishning fuqarolik-huquqiy va boshqa aspektlarini yoritib berish.

Big Dataga nisbatan intellektual mulk institutlarini qo'llash istiqbollari belgilash, Big Data mahsulotlarini intellektual mulk obyekti sifatida tan olish va himoya qilishning samarali modellarini taklif qilish.

Big Data sharoitida shaxsiy ma'lumotlarni himoya qilish va maxfiylikni ta'minlashning asosiy tamoyillari va mexanizmlarini ishlab chiqish;

Big Data kontekstida ma'lumotlar subyektlari huquqlarini kafolatlashda GDPR, OECD, APEC singari xalqaro andoza va yo'riqnomalarni tahlil qilish hamda ulardan milliy qonunchilikni takomillashtirishda foydalanish.

Ma'lumotlar subyektlarining ma'lumotlar portativligi, maxfiylik, ma'lumotlarga ishlov berishga rozilik hamda boshqa huquqlarining mazmunini yoritib berish, bu huquqlarning amalga oshirish mexanizmlarini ishlab chiqish.

Xorijiy mamlakatlarda Big Data sohasidagi huquqiy tartibga solish amaliyotini qiyosiy tahlil qilish, ilg'or tajribalarni umumlashtirish.

O'zbekiston qonunchiligini takomillashtirish bo'yicha ilmiy asoslangan tavsiyalar ishlab chiqish.

¹ Mazkur olimlar asarlarining ro'yxati dissertatsiyaning foydalanilgan adabiyotlar ro'yxatida berilgan.

Tadqiqotning obyekti Big Data texnologiyalari asosidagi fuqarolik-huquqiy munosabatlar tizimi, shu jumladan, ma'lumotlarga ishlov berish va himoya qilish jarayonlari bilan bog'liq munosabatlar hisoblanadi.

Tadqiqotning predmetini Big Data va uning elementlarining huquqiy tabiati, mulkiy holatini belgilash, ularni fuqarolik muomalasiga kiritish, himoya qilishni tartibga solishga oid ilmiy-amaliy muammolar, xalqaro-huquqiy hujjatlar, xorijiy mamlakatlar qonunchiligi va amaliyoti, milliy qonunchilik va huquqni qo'llash amaliyoti hamda mavjud konseptual yondashuvlar, ilmiy-nazariy qarashlar va huquqiy kategoriyalari tashkil etadi.

Tadqiqotning usullari. Tadqiqot doirasida ilmiy bilishning keng tarqalgan umumiy va xususiy usullari kompleks ravishda qo'llangan. Jumladan, tahlil va sintez, induksiya va deduksiya, abstraktlashtirish, tizimli yondashuv kabi umumiy usullardan foydalanilgan. Shuningdek, maxsus qiyosiy-huquqiy, formal-yuridik, statistik tahlil, empirik kuzatuv-ijtimoiy so'rov singari maxsus usullar ham qo'llangan. Aytish joizki, mazkur tadqiqotda an'anaviy yuridik metodlar bilan birga zamonaviy innovatsion yondashuvlar ham kompleks ravishda foydalanilgan.

Tadqiqotning ilmiy yangiligi quyidagi ilmiy natijalar bilan belgilanadi:

subyektning shaxsini aniqlash uchun foydalaniladigan biometrik va genetik ma'lumotlarga faqat mazkur subyektning roziligi sharti asosida amalga oshirilishi asoslab berilgan;

mulkdor va (yoki) operator qonunchilikda nazarda tutilgan hollarda subyektning o'z shaxsga doir ma'lumotlariga ishlov berish uchun subyektning roziligi olinganligi dalilini taqdim etishi talabi asoslantirilgan;

hamma foydalanishi mumkin bo'lgan ma'lumotlar, ya'ni subyektning roziligi bilan erkin foydalanilishi mumkin bo'lgan yoki maxfiylikka rioya etishga doir talablar tatbiq etilmaydigan ma'lumotlar toifasi va tushunchasi asoslab berilgan;

shaxsga doir ma'lumotlarning xavfsizligiga tahdidlar tushunchalarining yuridik ta'rifini qonunchilikda aks ettirish haqidagi takliflari asoslab berilgan;

ma'lumotlar bazalarida shaxsga doir ma'lumotlarga ishlov berishda ularni himoya qilishning talablari ishlab chiqilib, asoslab berilgan.

Tadqiqotning amaliy natijalari quyidagilardan iborat:

Big Data doirasidagi huquqiy munosabatlarni tartibga solishning mukammal konsepsiyasi va modeli taklif qilingan;

Big Datani fuqarolik muomalasiga kiritish va uni raqamli iqtisodiyot rivojiga yo'naltirish mexanizmlari ishlab chiqilgan;

Shaxsiy ma'lumotlariga nisbatan maqbul xavfsizlik darajasini ta'minlovchi huquqiy choralar majmui taqdim etilgan;

Milliy qonunchilikni xalqaro standartlar, xususan, Yevropa Ittifoqi va OECD talablari bilan uyg'unlashtirish yuzasidan amaliy takliflar kiritilgan;

Ma'lumotlarning fuqarolik-huquqiy muomalasini va Big Data subyektlarining huquqiy maqomini tartibga soluvchi normalarni takomillashtirish bo'yicha tavsiyalar ishlab chiqilgan;

Big Data va uning elementlarini intellektual mulk sifatida muhofaza qilishning samarali mexanizmlarini (mualliflik huquqi, sui generis huquq, tijorat sirlari) joriy etish asoslangan;

Big Data doirasida maxfiy ma'lumotlar muhofazasini kuchaytirishga qaratilgan huquqiy va tashkiliy choralar taklif qilingan;

Big Data sharoitida shaxsiy ma'lumotlar himoyasining zamonaviy tamoyillari va mexanizmlarini milliy qonunchilikda aks ettirish bo'yicha tavsiyalar berilgan;

Big Dataning huquqiy maqomi, unga bo'lgan mulkiy huquqlarni tartibga solish va axloqiy tamoyillarni ta'minlash uchun keng qamrovli huquqiy asos (framework) bo'lgan universal Big Data kodeksi konsepsiyasi ishlab chiqilgan.

Tadqiqot natijalarining ishonchliligi. Tadqiqot natijalarining ishonchliligi xorijiy olimlar tomonidan tavsiya etilgan usullar qo'llanilgani, xalqaro huquq va milliy qonunchilik normalari, rivojlangan davlatlar tajribasi, huquqni qo'llash amaliyoti tahlil qilingani, natijalar umumlashtirilgani, hujjatlashtirilgani, takliflar amaliyotga joriy etilgani va vakolatli organlar tomonidan tasdiqlangani hamda natijalar yetakchi nashrlarda e'lon qilingani bilan izohlanadi.

Tadqiqot natijalarining ilmiy-amaliy ahamiyati. Tadqiqot natijalaridan qonun ijodkorligi jarayonida, xususan, Big Data va shaxsiy ma'lumotlar sohasidagi qonunchilikni takomillashtirishda foydalanish mumkin. Shu bilan birga, olingan xulosalar raqamli iqtisodiyot rivojiga yo'naltirilgan loyihalarni amalga oshirishda, Big Data texnologiyalarini joriy qilishda va ma'lumotlar muhofazasini ta'minlashda amaliy qo'llanilishi mumkin.

Shuningdek, tadqiqot natijalaridan O'zbekiston Respublikasining intellektual mulk sohasidagi qonunchilikni takomillashtirish, "Xalqaro xususiy huquq", "Fuqarolik huquqi", "Kiber huquq" "Xalqaro tijorat huquqi", "Intellektual mulk huquqi" fanlarini o'qitish va ushbu fanlar bo'yicha yoziladigan darslik hamda o'quv qo'llanmalarni yaratish, ma'ruza matnlari, o'quv kurslarining dasturlarini tuzish, ilmiy-tadqiqot ishlari hamda fuqarolarning huquqiy ongi va madaniyatini oshirishda foydalanish mumkin.

Tadqiqot natijalarining joriy qilinishi. Tadqiqot natijalari asosida:

subyektning shaxsini aniqlash uchun foydalaniladigan biometrik va genetik ma'lumotlarga faqat mazkur subyektning **roziligi mavjud bo'lgan taqdirda**, bundan O'zbekiston Respublikasining xalqaro shartnomalarini ro'yobga chiqarish, odil sudlovni amalga oshirish, ijro ishini yuritish bilan bog'liq hollar mustasno, shuningdek qonunchilikda nazarda tutilgan boshqa hollarda ishlov berilishi mumkinligi haqidagi taklif O'zbekiston Respublikasining "Shaxsga doir ma'lumotlar to'g'risida"gi qonuni **26-moddaning uchinchi qismini** ishlab chiqishda foydalanilgan (O'zbekiston Respublikasi Oliy Majlisi Qonunchilik Palatasining 2024-yil 18-apreldagi dalolatnomasi). Ushbu taklifning joriy qilinishi subyektning maxsus maxfiy ma'lumotlariga nisbatan himoya choralarini kuchaytirib, unga qo'shimcha kafolatlar berishga xizmat qilgan;

Mulkdor va (yoki) operator qonunchilikda nazarda tutilgan hollarda subyektning o'z shaxsga doir ma'lumotlariga ishlov berish uchun **roziligi olinganligi dalilini taqdim etishiga** oid taklif O'zbekiston Respublikasining "Shaxsga doir ma'lumotlar to'g'risida"gi qonuni **31-moddaning ikkinchi qismining oltinchi xatboshisi** ishlab chiqilishida inobatga olingan (O'zbekiston Respublikasi Oliy Majlisi Qonunchilik Palatasining 2024-yil 18-apreldagi dalolatnomasi). Ushbu taklifning joriy qilinishi operator (mulkdor) shaxsga oid

ma'lumotlar bilan ruxsatsiz foydalanmasligini ta'minlashga, shaxsga oid ma'lumotlarga o'zboshimchalik bilan ishlov berishga yo'l qo'ymaslikka va shaxsga oid ma'lumotlar ishonchli huquqiy himoya qilinishi ta'minlashga zamin bo'lib xizmat qilgan;

subyektning roziligi bilan erkin foydalanilishi mumkin bo'lgan yoki maxfiylikka rioya etishga doir talablar tatbiq etilmaydigan ma'lumotlar **hamma foydalanishi mumkin bo'lgan ma'lumotlar** hisoblanishiga oid tushunchaga berilgan taklif O'zbekiston Respublikasi Vazirlar Mahkamasining 2022-yil 5-oktabrdagi "Shaxsga doir ma'lumotlarga ishlov berish sohasidagi ayrim normativ-huquqiy hujjatlarni tasdiqlash to'g'risida"gi 570-son qarori bilan tasdiqlangan Shaxsga doir ma'lumotlarga ishlov berishda ularning himoya qilinganlik darajasini belgilash to'g'risidagi nizomning **5-bandi o'ninchi xatboshisini** ishlab chiqishda inobatga olingan (O'zbekiston Respublikasi Vazirlar Mahkamasining 2024-yil 27-iyundagi ma'lumotnomasi). Ushbu taklifning joriy qilinishi hamma foydalanishi mumkin bo'lgan ma'lumotlarga nisbatan yagona yondashuvni ta'minlanishiga xizmat qilgan;

shaxsga doir ma'lumotlarning xavfsizligiga tahdidlar deganda, ma'lumotlar bazasiga ruxsatsiz, shu jumladan tasodifiy kirish natijasida shaxsga doir ma'lumotlarni o'zgartirish, to'ldirish, ulardan foydalanish, ularni berish, tarqatish, uzatish, egasizlantirish, yo'q qilish, nusxalash, shuningdek, boshqa noqonuniy harakatlarga olib kelishi mumkin bo'lgan shart-sharoitlar va omillar yig'indisi tushunilishi haqidagi taklif O'zbekiston Respublikasi Vazirlar Mahkamasining 2022-yil 5-oktabrdagi "Shaxsga doir ma'lumotlarga ishlov berish sohasidagi ayrim normativ-huquqiy hujjatlarni tasdiqlash to'g'risida"gi 570-son qarori bilan tasdiqlangan Shaxsga doir ma'lumotlarga ishlov berishda ularning himoya qilinganlik darajasini belgilash to'g'risidagi nizomning **7-bandi birinchi xatboshisini** ishlab chiqishda inobatga olingan (O'zbekiston Respublikasi Vazirlar Mahkamasining 2024-yil 27-iyundagi ma'lumotnomasi). Ushbu taklifning joriy qilinishi shaxsga doir ma'lumotlarning xavfsizligiga tahdidlar tushunchasiga, qanday xatti-harakatlar ma'lumotlarning xavfsizligiga tahdid deb topilishiga aniqlik kiritgan;

ma'lumotlar bazalarida shaxsga doir ma'lumotlarga ishlov berishda ularni himoya qilishning 4-darajasini ta'minlash uchun quyidagi **talablar** bajarilishi kerak: ma'lumotlar bazalari joylashgan binolarning xavfsizlik rejimini tashkil etish, ushbu binolarga kirish huquqiga ega bo'lmagan shaxslarning nazoratsiz kirishi yoki ushbu binolarda qolishining oldini olish; shaxsga doir ma'lumotlar mavjud bo'lgan moddiy jismlar xavfsizligini ta'minlash; ma'lumotlar bazalarida ishlov berilayotgan shaxsga doir ma'lumotlarga kirish, ularning xizmat (mehnat) vazifalarini bajarishi uchun zarur bo'lgan shaxslar ro'yxatini belgilaydigan hujjatni mulkdor va (yoki) operator rahbari tomonidan tasdiqlash; shaxsga doir ma'lumotlarni mavjud tahdidlardan himoya qilish, zarurat bo'lganda axborot xavfsizligi sohasidagi qonunchilik talablariga muvofiqligini baholash tartibidan o'tgan axborot xavfsizligi vositalaridan foydalanish to'g'risidagi taklif O'zbekiston Respublikasi Vazirlar Mahkamasining 2022-yil 5-oktabrdagi "Shaxsga doir ma'lumotlarga ishlov berish sohasidagi ayrim normativ-huquqiy hujjatlarni

tasdiqlash to'g'risida"gi 570-son qarori bilan tasdiqlangan Shaxsga doir ma'lumotlarga ishlov berishda ularning himoya qilinganlik darajasini belgilash to'g'risidagi nizomning **14-bandini** ishlab chiqishda inobatga olingan (O'zbekiston Respublikasi Vazirlar Mahkamasining 2024-yil 27-iyundagi ma'lumotnomasi). Ushbu taklifning joriy qilinishi shaxsga doir ma'lumotlar himoya qilinishi ta'minlaydigan talablar joriy etilishiga xizmat qilgan.

Tadqiqot natijalarining aprotatsiyasi. Tadqiqot natijalari 5 ta, jumladan, 3 ta xalqaro, 2 ta respublika ilmiy-amaliy anjumanlarida muhokamadan o'tkazilgan.

Tadqiqot natijalarining e'lon qilinganligi. Dissertatsiya mavzusi bo'yicha jami 11 ta ilmiy ish, jumladan, ilmiy jurnallar va to'plamlarda 11 ta (shundan 2 tasi xorijiy nashrlarda) ilmiy maqola va tezislarda chop etilgan.

Dissertatsiyaning tuzilishi va hajmi. Dissertatsiya tarkibiy jihatdan kirish, uchta bob, xulosa, foydalanilgan adabiyotlar ro'yxati va ilovalardan tashkil topgan. Tadqiqotning umumiy hajmi 156 betni tashkil etadi.

DISSERTATSIYANING ASOSIY MAZMUNI

Dissertatsiyaning kirish (doktorlik dissertatsiyasi annotatsiyasi) qismida tadqiqot mavzusining dolzarbligi va zarurati asoslantirilgan, tadqiqotning respublika fan va texnologiyalari rivojlanishining asosiy ustuvor yo'nalishlari bilan bog'liqligi, tadqiq etilayotgan muammoning o'rganilganlik darajasi, dissertatsiya mavzusining dissertatsiya bajarilayotgan oliy ta'lim muassasasining ilmiy-tadqiqot ishlari bilan bog'liqligi, tadqiqotning maqsad va vazifalari, obyekt va predmeti, usullari, tadqiqotning ilmiy yangiligi va amaliy natijasi, tadqiqot natijalarining ishonchliligi, tadqiqot natijalarining ilmiy va amaliy ahamiyati, ularning joriy qilinishi, tadqiqot natijalarining aprotatsiyasi, natijalarning e'lon qilinganligi va dissertatsiyaning hajmi va tuzilishi yoritib berilgan.

Dissertatsiyaning "**Big data (Ma'lumotlar) tushunchasi, mohiyati va huquqiy tabiati**" deb nomlangan birinchi bobida Big Data (katta hajmli ma'lumotlar) tushunchasining kelib chiqishi, mohiyati va asosiy xususiyatlari, nazariy-huquqiy asoslari tahlil qilingan. Big Data atamasi ilk bor qo'llanilgan vaqt va makonni aniqlash, bu borada turli xil qarashlarni o'rganish va taqqoslash orqali Big Data fenomenining shakllanish bosqichlari yoritilgan. Tadqiqotda Jon Mash, Dag Leyni kabi mutaxassislarining Big Data to'g'risidagi qarashlari va ta'riflari tanqidiy nuqtai nazardan o'rganilgan. Shuningdek, Gantz, Reynsel, Zikopulos, Boyd, Krauford, Mayer-Schönberger va Cukier, A.K. Zharov kabi olimlarning Big Data tushunchasi va uning xususiyatlariga doir ilmiy xulosalari tahlil qilinib, mualliflik ta'rifi berilgan. Tadqiqotchiga ko'ra, *"Big Data - bu raqamli texnologiyalar yordamida turli manbalardan yig'ilgan, an'anaviy usullar bilan ishlov berish, saqlash va tahlil qilish imkoniyatidan ortiq bo'lgan, yuqori tezlikda o'sib borayotgan va xilma-xil tuzilmaga ega bo'lgan ma'lumotlar to'plami"*dir.

Big data tushunchasining asosiy belgilari va xususiyatlari sifatida hajm (volume), tezlik (velocity), xilma-xillik (variety), ishonchlilik (veracity) va qiymat (value) kabi mezonlar ajratib ko'rsatilgan. Xususan, hajm (volume) Big Dataning eng muhim xususiyatlaridan biri bo'lib, u petabayt va eksabayt kabi o'lchovdagi

ma'lumotlarni qamrab olishi, tezlik (velocity) Big Dataning tez sur'atlar bilan to'planishi, qayta ishlanishi va tahlil qilinishini anglatishi, xilma-xillik (variety) Big Dataning turli xil manbalardan olingan, turli formatdagi va turli turdagi ma'lumotlarni o'z ichiga olishini ifodalashi, ishonchlilik (veracity) Big Dataning to'g'riligi, ishonchliligi va sifatini ko'rsatuvchi xususiyatligi, qiymat (value) esa uning iqtisodiy va ijtimoiy ahamiyatini aks ettirishi bayon etilgan.

Dissertant Big Dataning an'anaviy ma'lumotlar va ma'lumotlar bazalaridan farqli jihatlarini qiyosiy tadqiq etgan.

Muallif Big Datani faqat texnologik hodisa sifatida emas, balki ijtimoiy-iqtisodiy va huquqiy munosabatlarga ta'sir ko'rsatuvchi multifunksional fenomen sifatida tavsiflagan.

Big Dataning huquqiy tabiati masalasi atroflicha ko'rib chiqilgan. Big Dataning moddiy va nomoddiy ne'matlar bilan o'xshash va farqli tomonlari tahlil qilingan. Jumladan, tadqiqotchi Big Dataning ashyoviy shaklga ega emasligi, raqamli ko'rinishda mavjudligi, ko'p marotaba foydalanish imkoniyati va nusxa ko'chirish osonligi kabi jihatlari uni moddiy ne'matlardan farqlashini, ayni paytda, Big Dataning ayrim hollarda moddiy ne'matlarga xos xususiyatlarga ega bo'lishi, masalan, qiymatga ega bo'lishi, oldi-sotdi va ayirboshlash obyekti bo'lishi mumkinligini ochib berilgan.

Shu bilan birga, Big Dataning g'oyalar, bilimlar va axborotlarning natijasi sifatida yaratilishi, qiymat kasb etishi uni nomoddiy ne'matlarga yaqinlashtirishi asoslab berilgan. Big Data ko'proq intellektual faoliyat natijalariga xos bo'lgan xususiyatlarga, jumladan, nomoddiy ko'rinishga egaligi, ko'p marotaba foydalanish imkoniyati va nusxa ko'chirish osonligi alohida qayd etilgan.

Big Dataning o'ziga xos xususiyatlaridan kelib chiqib, uni yangi turdagi huquqiy munosabat obyekti sifatida tan olish zarurati ilgari surilgan. Big Datani fuqarolik huquqining alohida obyekti sifatida e'tirof etish, unga nisbatan maxsus huquqiy rejim yaratish lozimligini ta'kidlangan. Xususan, Big Dataning yaratilishi, saqlanishi, tarqatilishi va ishlov berilishiga oid munosabatlarni tartibga soluvchi normalarni joriy etish, uning huquqiy maqomini aniqlashtirish zarurati asoslab berilgan.

Muallif tomonidan Big Data fenomenining murakkabligi va o'ziga xosligini inobatga olib, unga nisbatan huquqiy rejimni belgilashda o'ndan ortiq konsepsiya va nazariyalar qiyosiy tahlil etilib, *kompleks model* yondashuvi ilgari suriladi. Bunda, kompleks model yondashuvi qatlamli huquqlar tizimi (*Layered Rights Approach*), ma'lumotlar ishonchli boshqaruvi (*Data Trusteeship Concept*), litsenziyalash doirasi (*Licensing Systems*), nazorat qilinadigan ma'lumotlar oqimlari (*Data Sovereignty*), kuchaytirilgan maxfiylik kafolatlari (*Information Privacy Theory*), ochiq ma'lumotlar tashabbuslari (*Public Resource Theory*) va sui generis himoyasi (*Sui Generis Database Rights*) singari konsepsiya va nazariyalar o'z ichiga olishi qayd etilgan. Big Data sohasidagi huquqiy munosabatlarni kompleks tartibga solishga imkon beruvchi ushbu kompleks model ma'lumotlarning ta'sirchanligiga qarab himoya darajasini belgilash, maxfiylikni ta'minlash, innovatsiyalarni rag'batlantirish, milliy va xalqaro manfaatlar muvozanatini saqlash, shaxsiy ma'lumotlarni himoya qilish, ochiq ma'lumotlar

almashinuvini qo'llab-quvvatlash va qimmatli ma'lumotlar bazalarini yaratishga investitsiyalarni himoya qilishga yo'naltirilganligi asoslab berilgan.

Tadqiqotda Big data doirasida shaxsiy ma'lumotlar tushunchasi, mohiyati va ahamiyati masalasiga ham alohida e'tibor qaratilgan. Zamonaviy axborot texnologiyalari sharoitida shaxsiy ma'lumotlar hajmi va qamrovi sezilarli darajada kengayib borayotgani, Big data tizimlarida to'planayotgan ma'lumotlarning sezilarli qismini aynan shaxsiy ma'lumotlar tashkil etishi statistik ma'lumotlar asosida ko'rsatib o'tilgan. Big data sharoitida shaxsiy ma'lumotlar tushunchasining transformatsiyasi, uning an'anaviy chegaralaridan chiqib, yangi ma'no va xususiyatlarga ega bo'lishi tadqiq etilgan.

Shaxsiy ma'lumotlar tushunchasining Yevropa Ittifoqi, Rossiya va boshqa xorijiy davlatlar va O'zbekiston qonunchiligidagi ta'riflari, ularning o'ziga xos xususiyatlari tahlil qilingan. O'zbekiston qonunchiligidagi ta'rif esa umumiy xarakterga ega ekanligi qayd etilib, shaxsiy ma'lumotlar tushunchasini yanada aniqlashtirish va kengaytirish zarurati asoslab berilgan. Shaxsiy ma'lumotlar tushunchasining keng qamrovlik mualliflik ta'rifi berilib, qonunchilikka tegishli o'zgartirish kiritish taklifi berilgan. Xususan, *“shaxsga doir ma'lumotlar - shaxsning biometrik ma'lumotlari, sog'lig'i va fiziologik holati haqidagi ma'lumotlar, genetik ma'lumotlari, geolokatsiya ma'lumotlari, shaxsning onlayn faoliyati va raqamli izi bilan bog'liq ma'lumotlar, hamda shaxsni bevosita yoki bilvosita identifikatsiya qilish imkonini beruvchi har qanday ma'lumot”* ekanligi ta'kidlanadi.

Tadqiqotda shaxsiy ma'lumotlarni tasniflash, turlarini ajratish masalalari ko'rib chiqilib, shaxsiy ma'lumotlarning identifikatsiya ma'lumotlari, demografik ma'lumotlar, xulq-atvor ma'lumotlari, psixografik ma'lumotlar va ijtimoiy ma'lumotlar kabi turlari ajratib ko'rsatilgan. Shuningdek, maxsus toifadagi shaxsiy ma'lumotlar, jumladan biometrik, genetik va sog'liqqa oid ma'lumotlar alohida himoyaga muhtoj ekanligi ta'kidlangan.

Big data sharoitida shaxsiy ma'lumotlarning yangi turlari, jumladan biometrik, genetik va geolokatsiya ma'lumotlari paydo bo'layotgani, IoT texnologiyalari shaxslarning kundalik hayoti va faoliyati haqidagi o'ta shaxsiy va ta'sirchan ma'lumotlarni to'plash imkonini yaratayotgani keltirilib, bunday ma'lumotlarni himoya qilish uchun maxsus huquqiy mexanizmlar zaruriyati asoslab berilgan.

Tadqiqotchi tomonidan dissertatsiyaning **“Big data doirasida mulk huquqi, intellektual mulk huquqi”** deb nomlangan ikkinchi bobida Big Data va uning elementlarining mulkiy-huquqiy maqomi, ularga nisbatan mulk va intellektual mulk huquqlarining qo'llanilishi masalalari tadqiq etilgan. Bunda Big Dataning o'ziga xos xususiyatlaridan kelib chiqib, unga nisbatan an'anaviy mulkiy yondashuvlarni qo'llash muammolari ochib berilgan.

Dissertant Big Dataning mulk huquqi obyektida e'tirof etilishi bilan bog'liq nazariy va amaliy jihatlarni ko'rib chiqib, Big Dataning ashyoviy shaklga ega emasligi, raqamli ko'rinishda mavjudligi, ko'p marotaba foydalanish imkoniyati va nusxa ko'chirish osonligi kabi jihatlari uni moddiy ne'matlardan farqlashini ta'kidlaydi. Ayni paytda, Big Dataning ayrim hollarda moddiy

ne'matlarga xos xususiyatlarga ega bo'lishi, masalan, qiymatga ega bo'lishi, oldi-sotdi va ayirboshlash obyekti bo'lishi mumkinligi qayd etilgan. Shu bilan birga, Big Dataning g'oyalar, bilimlar va axborotlarning natijasi sifatida yaratilishi, qiymat kasb etishi uni nomoddiy ne'matlarga yaqinlashtirishi asoslab berilgan.

Xorijiy mamlakatlardagi ma'lumotlarga nisbatan mulk huquqi masalalariga oid innovatsion yondashuvlar, xususan *fidutsiar mulk (fiduciary ownership)*, "kvazi-mulk", "kuchli" va "kuchsiz" mulk huquqi modellari, "ma'lumotlar boshqaruvchisi" kabi konsepsiya va modellar qiyosiy tahlil etilib, ma'lumotlar boshqa moddiy yoki nomoddiy "ashyo" kabi emasligi va ma'lumotlarning o'ziga xos xususiyatlari tufayli "mulk huquqi" tushunchasi ma'lumotlarga nisbatan yuridik ma'noda ishlatilishida ma'lum qiyinchiliklarni o'z ichiga olishi asoslantirilgan.

Xalqaro va milliy huquqiy hujjatlarni tahlil qilish asosida, Big Dataning o'ziga nisbatan mulk huquqi emas, balki unga nisbatan nazorat va foydalanish huquqlari qo'llanilishi maqsadga muvofiqligi ko'rsatib berilgan.

Shuningdek, milliy qonunchilikda Big Data elementlari - axborot, shaxsga doir ma'lumotlar bazasi, axborot resurslarini mulk huquqi obyektlari sifatida e'tirof etuvchi qoidalar mavjudligi qayd etilgan va ular tanqidiy tahlil qilingan. Xususan, FK va bir qator qonunlardagi nomuvofiqliklar, jumladan ma'lumotlar bazasiga nisbatan bir vaqtning o'zida mulk va mualliflik huquqi qoidalarining qo'llanilishi kabi qarama-qarshiliklar ko'rsatib o'tilgan. Muallif milliy qonunchilikdagi nomuvofiqliklarni bartaraf etish uchun Yevropa Ittifoqi Umumiy ma'lumotlarni himoya qilish reglamenti (GDPR) tavsiyalari va rivojlangan davlatlar tajribasini hisobga olgan holda, Big Data elementlariga nisbatan "mulkdor" tushunchasini "nazoratchi" tushunchasi bilan almashtirish, Fuqarolik kodeksiga Big Datani intellektual mulk obyekti sifatida kirituvchi o'zgartishlar kiritishni taklif etgan. Bunda Fuqarolik kodeksi, "Mualliflik huquqi va turdosh huquqlar to'g'risida"gi qonunga Big Datani intellektual mulk obyekti sifatida kirituvchi o'zgartishlar kiritish, "Axborotlashtirish to'g'risida"gi qonun, "Shaxsga doir ma'lumotlar to'g'risida"gi qonun va "Axborot erkinligi tamoyillari va kafolatlari to'g'risida"gi qonundan "mulkdor" atamasini chiqarib tashlash hamda uni "nazoratchi" tushunchasi bilan almashtirish, bu o'zgartishlar Big Data elementlarining huquqiy maqomini aniqlashtirish va ularni himoya qilishda yagona yondashuvni ta'minlashga xizmat qilishi ilgari surilgan.

Tadqiqot davomida Big Data va uning elementlarining intellektual mulk obyekti sifatidagi maqomi ham atroflicha ko'rib chiqilgan. Xususan, Big Data va uning tarkibiy qismlari mualliflik huquqi, ma'lumotlar bazasi sui generis huquqi va savdo sirlari bilan himoyalaniishi mumkinligi tahlil qilingan. Bunda xorijiy mamlakatlar qonunchiligi va sud amaliyotidagi Big Data elementlarini intellektual mulk sifatida himoyalashga oid normalar va precedentslar o'rganilgan. Misol uchun, AQShning "Feist Publications, Inc. v. Rural Telephone Service Co.", Yevropa Ittifoqi Sudining "Football Dataco Ltd and Others v Yahoo! UK Ltd and Others" ishlari ma'lumotlar bazalarini mualliflik huquqi bilan himoyalash mezonlarini aniqlashda muhim ahamiyatga ega ekanligi ko'rsatib berilgan.

Shu bilan birga, Big Data elementi sifatida ma'lumotlar bazalarini himoya

qilishga oid xalqaro va milliy qonunchilik normalariga baho berilgan. Xususan, Yevropa Ittifoqining Ma'lumotlar bazalari to'g'risidagi Direktivasi (96/9/EC), O'zbekistonning Fuqarolik kodeksi, "Mualliflik huquqi va turdosh huquqlar to'g'risida"gi qonuni normalarining tahlili asosida ma'lumotlar bazalarini mualliflik huquqi obyekt sifatida himoyalash uchun ularning originalligi, shuningdek ma'lumotlarni tanlash va joylashtirish bo'yicha jiddiy mehnat sarflanganligi mezonlari muhimligi qayd etilgan.

Shuningdek, ilg'or xorijiy tajribalarni inobatga olgan holda, O'zbekistonda ham Big Data elementlarini sui generis huquq bilan himoya qilish mexanizmlarini joriy etish, xususan, Fuqarolik kodeksiga sui generis huquqi institutiga bag'ishlangan **60¹-bob. Sui generis huquqi**, deb nomlangan yangi bob bilan to'ldirish taklif etilgan. Bu borada Yevropa Ittifoqi Ma'lumotlar bazalari to'g'risidagi Direktivasi (96/9/EC) normalaridan namuna sifatida foydalanish mumkinligi asoslab berilgan. Bunda ma'lumotlar bazasini yaratishda sezilarli investitsiya (substantial investment) kiritilganligi sui generis huquqni vujudga keltirishi, ushbu huquq esa yaratuvchiga ma'lumotlar bazasidan foydalanishda mutlaq huquqni berishi ko'rsatib o'tilgan. Sui generis huquq Big Data elementlarini samarali himoyalash uchun maqbul vosita bo'lib xizmat qilishi mumkinligi asoslantirilgan.

Bundan tashqari, dissertatsiyada Big Data va uning elementlarini savdo sirlari sifatida himoya qilish imkoniyatlari ham ko'rib chiqilgan. AQSh va Yevropa Ittifoqi qonunchiligi hamda sud amaliyotidagi Big Data va savdo sirlari o'rtasidagi munosabatlarni tartibga soluvchi qoidalar tahlil qilingan. Jumladan, AQSh sudlarining "Wellogix v. Accenture", "Michelin v. Tire Kingdom" singari ishlaridagi Big Data elementlarini savdo sirlari sifatida himoyalashni tasdiqlagan qarorlari tahlil etilgan.

Dissertatsiyaning "**Big data doirasida ma'lumotlarni himoya qilish va maxfiylikni ta'minlash bo'yicha asosiy qoidalar**" deb nomlangan uchinchi bobida Big Data tahlilida ma'lumotlarni himoya qilish va maxfiylikni ta'minlash masalalari atroflicha tadqiq etilgan. Bunda Big Data tahlilida adolatlilik, oqilonalik (oqilona kutish) va shaffoflik tamoyillarining o'rni alohida yoritilgan. Tadqiqotda Big Data tashkilotlari shaxsiy ma'lumotlar bilan ishlashda ushbu tamoyillarga amal qilishlari zarurligi asoslab berilgan.

Adolatlilik tamoyili ma'lumotlarga ishlov berishning subyektlar uchun adolatli, muvofiq va kamsitmaydigan tarzda amalga oshirilishini taqozo etishi, bunda ma'lumotlarning hajmi, xilma-xilligi va tahlil algoritmlarining murakkabligi ma'lumotlar subyektlarini "profillashtirish" va "diskriminatsiyaga uchratish" xavflari borligi alohida zikr etirilgan. Big Data tahlili kamsituvchi bo'lmasligi kerakligi, u shaxslar haqida adolatsiz va asossiz qarorlar qabul qilishga olib kelmasligi bayon etilib, tashkilotlar shaxsiy ma'lumotlarni ishlov berishning salbiy oqibatlarini, jumladan diskriminatsiya xavfini minimallashtirishi sharti ta'kidlangan.

Shu bilan birga, dissertatsiyada "oqilona kutish" (reasonable expectations) tamoyilining mazmun-mohiyati ham tahlil qilinib, ma'lumot subyektlari o'z ma'lumotlarini taqdim etar ekan, uning qanday maqsadlarda va qay tarzda qayta

ishlanishi haqida obyektiv tasavvurga ega bo'lishi va bunga nisbatan "oqilona kutishga" haqli ekanligi ta'kidlangan. Izlanuvchi tomonidan qiyosiy-huquqiy tahlil asosida AQSh, Yaponiya, Kanada, Singapur kabi davlatlar qonunchiligida "oqilona kutish" standarti nazarda tutilgani ko'rsatilib, O'zbekiston qonunchiligida ham ushbu tamoyilni kiritish takliflari asoslab berilgan.

Big Data loyihalarida ma'lumotlarga ishlov berishning "qora quti" sifatida qolishiga yo'l qo'yimaslik, jarayonlar shaffofligini ta'minlash zarurligi ochib berilgan.

Ma'lumotlar bilan ishlash jarayonida shaffoflikni ta'minlash, jumladan ma'lumotlar subyektlarini ma'lumotlarning qanday ishlatilayotgani haqida xabardor qilish Big Data tashkilotlari zimmasidagi muhim majburiyat ekanligi, shaffoflik ma'lumotlarning to'planishi, ishlatilishi va oshkor qilinishi kabi barcha bosqichlarni qamrab olishi kerakligi, bu esa subyektlarga o'z ma'lumotlari ustidan nazoratni amalga oshirish imkonini berishi asoslab berilgan.

Shaxsga doir ma'lumotlarga ishlov berish shartlari, jumladan rozilik, qonuniy manfaatlar hamda sharnomaviy munosabatlarning o'ziga xosligi tahlil qilingan. Big Data tahlilida rozilik olishning qiyinchiliklari, shu bilan birga uning muhimligi ta'kidlanib, rozilik olishning yangi, moslashuvchan modellarini joriy etish zarurati ko'rsatib berilgan. Xususan, bosqichma-bosqich rozilik olish, real vaqt rejimida ma'lumot berish, avtomatlashtirilgan rozilik tizimlari joriy etilishi maqsadga muvofiq ekanligi asoslab berilgan.

Qonuniy manfaatlar asosida ma'lumotlarga ishlov berish Big Data kontekstida muqobil asos bo'lishi mumkinligi, bunda tashkilotlar manfaatlarini subyektlarning huquqlari bilan muvozanatlashtirish lozimligi, biroq bu shart ma'lumotlar subyekti uchun yuqori xavf tug'dirmasligi va uning huquqlarini cheklamasligi kerakligi ochib berilgan.

Raqamli platformalarda shaxsiy ma'lumotlarni joylashtirish va qayta ishlash, platforma va foydalanuvchi o'rtasidagi munosabatlar shartnoma orqali tartibga solinishi, bunda shartnomalar turli huquqiy tabiatga ega bo'lishi mumkinligi, ushbu shartnomalarning o'ziga xos xususiyatlari qiyosiy tahlil etilgan.

Tadqiqotda Big Data doirasida ma'lumotlar huquqiy himoyasini ta'minlashda maqsadli cheklash, minimallashtirish, aniqlik, kirish huquqi va hisobdorlik kabi muhim qoidalarning roli ochib berilgan.

Maqsadli cheklash tamoyili Big Data tahlili uchun mutlaq to'siq emas, balki ishlov berish maqsadlarining mosligini baholashni taqozo etishi, ya'ni, ma'lumotlardan foydalanishda dastlabki maqsadga mos kelishi kerakligi, aks holda, yangi maqsad uchun subyektlardan qo'shimcha rozilik olish talab etilishi ta'kidlangan.

Big Data tahlilida ortiqcha ma'lumotlarni to'plash, samarali boshqara olmaslik xavflari borligi qayd etilgan. Ma'lumotlarni minimallashtirish tamoyili tashkilotlar faqat ishlov berish maqsadlariga erishish uchun zarur bo'lgan eng kam miqdordagi ma'lumotlarni to'plashi va saqlashi kerakligi, bu subyektlar uchun xavflarni kamaytirishi va tashkilotlarning mas'uliyatini pasaytirishi asoslab berilgan.

Muallif ma'lumotlar sifati va aniqligi ham ishlov berish uchun hal qiluvchi ahamiyatga egaligi, Big Data loyihalarida qabul qilingan qarorlar aniq va ishonchli

ma'lumotlarga asoslanishi kerakligi, tashkilotlar ma'lumotlarni to'plash, saqlash va ishlov berish jarayonlarida ularning to'g'riligi, dolzarbligi va ishonchligini ta'minlashi lozimligini ta'kidlagan.

Ma'lumotlar subyektlarining o'z ma'lumotlariga kirish huquqi ham Big Data kontekstida muhim o'rin tutishi, subyektlar o'zlari haqida qanday ma'lumotlar to'plangani, ulardan qanday maqsadlarda foydalanilayotgani to'g'risida xabardor bo'lishi va ushbu ma'lumotlarning nusxasini olishga haqli ekanligi, Big Data tashkilotlari ushbu huquqni ta'minlash uchun samarali mexanizmlarni joriy etishlari zarurligi asoslab berilgan.

Shaxsiy ma'lumotlarga ishlov berish jarayonida subyektlarning huquqlarini kafolatlashga urg'u berilib, "unutilish huquqi"ni ta'minlash bo'yicha choralar ko'rish zarurati ochib berilgan, milliy qonunchilikka bu bo'yicha tegishli o'zgartirishlar kiritish taklif etilgan. Ma'lumotlar subyektlariga o'z ma'lumotlariga nisbatan nazorat imkoniyatlarini kengaytirish, ma'lumotlarni o'zgartirish va o'chirib tashlash huquqini berish muhimligi haqida xulosaga kelingan.

XULOSA

“Big Dataning fuqarolik-huquqiy rejimi” mavzusidagi tadqiqotda quyidagi ilmiy-nazariy, qonun ijodkorligi va huquqni qo'llash amaliyotini takomillashtirishga oid xulosalarga kelindi:

I. Ilmiy-nazariy xulosalar:

1. Big Dataning ashyoviy shaklga ega emasligi uni moddiy ne'matlardan farqlasa, qiymatga egaligi va intellektual faoliyat mahsuli ekanligi nomoddiy ne'matlarga yaqinlashtiradi. Shu bilan birga, Big Data o'zining qator noyob xususiyatlari, jumladan, katta hajmi, tezkor sur'atlar bilan yaratilishi va yangilanib turishi, turli formatlardagi va shakllanmagan ma'lumotlarni qamrab olishi bilan moddiy va nomoddiy ne'matlardan farqlanadi. Bu esa, Big Dataning huquqiy tabiati va rejimini belgilashda alohida yondashish lozimligini ko'rsatadi.

2. Big Dataning fuqarolik-huquqiy rejimini belgilash yuzasidan bir nechta yetakchi konsepsiya va nazariyalarni ko'rib chiqilib, Big Data fenomenining murakkabligi va o'ziga xosligini inobatga olib, kompleks model yondashuvi ilgari surildi. Bu yondashuv qatlamli huquqlar tizimi (*Layered Rights Approach*), ma'lumotlar ishonchli boshqaruvi (*Data Trusteeship Concept*), litsenziyalash doirasi (*Licensing Systems*), nazorat qilinadigan ma'lumotlar oqimlari (*Data Sovereignty*), kuchaytirilgan maxfiylik kafolatlari (*Information Privacy Theory*), ochiq ma'lumotlar tashabbuslari (*Public Resource Theory*) va sui generis himoyani (*Sui Generis Database Rights*) o'z ichiga oladi. Ushbu elementlar ma'lumotlarning ta'sirchanligiga qarab himoya darajasini belgilash, maxfiylikni ta'minlash, innovatsiyalarni rag'batlantirish, milliy va xalqaro manfaatlar muvozanatini saqlash, shaxsiy ma'lumotlarni himoya qilish, ochiq ma'lumotlar almashinuvini qo'llab-quvvatlash va qimmatli ma'lumotlar bazalarini yaratishga investitsiyalarni himoya qilishga qaratilgan. Bu yondashuv Big Data sohasidagi huquqiy munosabatlarni kompleks tartibga solishga imkon beradi.

3. Big Dataning huquqiy maqomini, rejimini aniq belgilaydigan, Big Datani fuqarolik huquqi obyekt sifatida tan oladigan va unga nisbatan mulk huquqi yoki mulkiy huquq masalalarini tartibga soladigan maxsus qonun hujjatlari hali biror-bir davlat tajribasida uchramasligi, faqatgina bu bo'yicha tashkiliy harakatlar olib borilayotganligi aniqlandi. Tadqiqot natijalariga ko'ra, buning asosiy sababi Big Dataning yangi tushuncha ekanligi, o'ziga xos murakkab tuzilishi, uni moddiy va nomoddiy mulk obyektlari qatoriga kiritish qiyinligi bilan asoslandi. Biroq, bugungi kunga kelib Big Data va uning elementlarining huquqiy maqomini aniq belgilab beruvchi maxsus qonun hujjatini ishlab chiqish juda zarurligi tadqiqot davomida yanada ochib berildi. Ushbu ehtiyojdan kelib chiqib, Big Data bilan faoliyat olib boruvchi tashkilotlarga **"soft law"**, ya'ni tavsiyaviy, namunaviy xarakterdagi huquqiy hujjat bo'lib xizmat qilishi mumkin bo'lgan **Universal Big Data kodeksi konsepsiyasi** tadqiqot natijasi sifatida ishlab chiqildi.

4. Big Dataga nisbatan milliy qonunchiligimizdagi to'plamlar (ensiklopediyalar, antologiyalar, ma'lumotlar bazalari) va materiallarning tanlanganligi yoki joylashtirilganligiga ko'ra ijodiy mehnat natijasi bo'lgan boshqa jamlama asarlar mualliflik huquqi obyektlari hisoblanishi haqidagi normaga tayangan holda **mualliflik huquqi qo'llanilishi** lozimligini, shu bilan birga Big Dataning murakkab tuzilishi va **ko'p mehnat va investitsiya talab etishini** inobatga olgan holda Big Dataga nisbatan mualliflik huquqi bilan birgalikda **sui generis** huquqini ham nazarda tutish lozimligi, Big Dataga nisbatan mualliflik huquqi va sui generis huquqini tatbiq etish orqali uning to'laqonli himoyasini ta'minlanishi asoslantirildi.

5. Tadqiqot davomida shu aniqlandiki, Big Data nafaqat an'anaviy shaxsiy ma'lumotlarni, balki shaxsning **xulq-atvori, qadriyatlarini, ijtimoiy aloqalari, onlayn faoliyati, xarid odatlari** kabi ko'plab jihatlarni ham qamrab oluvchi yangi turdagi ma'lumotlarni o'z ichiga oladi. Bu esa o'z navbatida, shaxsiy ma'lumotlar xavfsizligi va maxfiylikni ta'minlashga nisbatan yangicha yondashuvlarni talab etadi. Milliy qonunchilikka shaxsiy ma'lumotlarning yangi turlarini kiritish, maxsus toifadagi shaxsiy ma'lumotlar (*ijtimoiy, geolokatsiya, onlayn faoliyati* va boshqalar) doirasini kengaytirish hamda Yevropa Ittifoqining GDPR reglamenti va OECD yo'riqnomalari kabi ilg'or xorijiy tajribani inobatga olgan holda ushbu yangi toifadagi shaxsiy ma'lumotlar uchun yuqori himoya standartlarini belgilash lozimligi asoslab berilib, tegishli takliflar berildi.

6. Big Data sohasidagi munosabatlarni tartibga solish nafaqat normativ qoidalar, balki **inson huquqlari va qadr-qimmatini hurmat qilish, shaffoflik va hisobdorlik, ma'lumotlar sifati va xavfsizligi, kamsitishga yo'l qo'ymaslik** kabi prinsip va umuminsoniy qadriyatlar Big Dataga oid munosabatlarning asosini tashkil etishi lozimligi haqidagi xulosaga kelindi. Tadqiqot davomida, milliy qonunchilikda axloqiy me'yorlarni huquqiy normalarga integratsiya qilish asoslantirildi.

7. Natijalarni umumlashtirib aytganda, Big Dataning huquqiy maqomini belgilash, ma'lumotlar xavfsizligi va sifatini nazorat qilish, sohaga investitsiyalarni jalb etish, kadrlar tayyorlash kabi yo'nalishlarda maqsadli dasturlar ishlab chiqish talab etiladi. O'zbekiston sharoitida ham "Raqqamli iqtisodiyot" milliy dasturi

doirasida Big Data sohasini rivojlantirish, institutsional asoslarini mustahkamlash va infratuzilmasini yaratishga oid choralar kompleksini belgilash maqsadga muvofiq degan xulosaga kelindi.

II. Qonunchilikni yanada takomillashtirish bo'yicha takliflar:

1. O'zbekiston Respublikasi Fuqarolik kodeksi IV bo'limini, "Mualliflik huquqi va turdosh huquqlar to'g'risida"gi qonunni Big Datani intellektual mulk obyekti sifatida ifodalovchi o'zgartishlar bilan to'ldirish taklif etiladi.

2. O'zbekiston Respublikasi Fuqarolik kodeksi **1031-moddasi 1-bandi to'rtinchi xatboshisini** quyidagi tahrirda bayon etish:

"Big Data, elektron hisoblash mashinalari (bundan buyon matnda EHM deb yuritiladi) uchun dasturlar va ma'lumotlar bazalari;

3. "Mualliflik huquqi va turdosh huquqlar to'g'risida"gi qonunning **3-moddasi birinchi qismi o'n beshinchisi xatboshisi** hamda "Shaxsga doir ma'lumotlar to'g'risidagi" qonunning **4-moddasi birinchi qismi beshinchi xatboshisini** quyidagi jumla bilan to'ldirish:

"Big Data - bu raqamli texnologiyalar yordamida turli manbalardan yig'ilgan, an'anaviy usullar bilan ishlov berish, saqlash va tahlil qilish imkoniyatidan ortiq bo'lgan, yuqori tezlikda o'sib borayotgan va xilma-xil tuzilmaga ega bo'lgan ma'lumotlar to'plami".

4. O'zbekiston Respublikasi Fuqarolik kodeksiga sui generis huquqi institutiga bag'ishlangan **60¹-bob. Sui generis huquqi**, deb nomlangan yangi bob bilan to'ldirish taklif etiladi. Xususan, ushu bob doirasida ma'lumotlar bazasi yaratishda sezilarli darajadagi sarmoya kiritilgan va uning tarkibi, tizimlashtirish va taqdim etish shakli o'ziga xoslik kasb etgan hollarda ma'lumotlar bazasiga sui generis huquqi vujudga kelishi, sui generis huquqi ma'lumotlar bazasidan butunlay yoki uning sezilarli qismidan nusxa ko'chirish yoki qayta ishlatishdan himoya qilishi kabi normalar o'z ifodasini topishi maqsadga muvofiq.

5. "Shaxsga doir ma'lumotlar to'g'risida"gi qonunning 4-moddasidagi *"shaxsga doir ma'lumotlar"* tushunchasini yanada aniqlashtirish va kengaytirish maqsadida **4-moddasi ikkinchi xatboshini** quyidagi tahrirda bayon etish maqsadga muvofiq:

"shaxsga doir ma'lumotlar - shaxsning biometrik ma'lumotlari, sog'lig'i va fiziologik holati haqidagi ma'lumotlar, genetik ma'lumotlari, geolokatsiya ma'lumotlari, shaxsning onlayn faoliyati va raqamli izi bilan bog'liq ma'lumotlar, hamda shaxsni bevosita yoki bilvosita identifikatsiya qilish imkonini beruvchi har qanday ma'lumot".

6. Adolatlilik va shaffoflik tamoyillarini kuchaytirish maqsadida O'zbekiston Respublikasining "Shaxsga doir ma'lumotlar to'g'risida"gi qonunining **5-moddasiga quyidagi mazmundagi ikkinchi va uchinchi xatboshilari** bilan to'ldirish lozim:

"adolatlilik va kamsitishga yo'l qo'ymasligi;" "qonuniylik, shaffoflik va oqilonalik (oqilona kutish) tamoyillariga muvofiq amalga oshirilishi".

7. Ma'lumotlarni maqsadli cheklash va minimallashtirish tamoyillarini mustahkamlash uchun "Shaxsga doir ma'lumotlar to'g'risida"gi qonun 10-moddasi quyidagi mazmundagi **to'rtinchi qism** bilan to'ldirish:

"Ma'lumotlarga ishlov beruvchi (operator)shaxsga doir ma'lumotlarni faqat oldindan belgilangan, aniq va qonuniy maqsadlarda hamda ushbu maqsadlarga erishish uchun zarur bo'lgan minimal hajmda to'plashi va ishlov berishi shart".

8. Big Data tahlilida shaxsiy ma'lumotlarni himoya qilish uchun maxsus kafolatlar va mexanizmlarni nazarda tutuvchi quyidagi mazmundagi **"Big data tahlilida ma'lumotlarga ishlov berish usullari"** to'g'risidagi **16¹-modda** bilan to'ldirish:

"Big Data texnologiyalarini qo'llagan holda shaxsga doir ma'lumotlarga ishlov berish ushbu qonun talablariga qat'iy rioya etilgan holda, qo'shimcha kafolatlar asosida, shu jumladan ma'lumotlarni anonimlashtirish, psevdonimlashtirish, kriptografik himoyalash va boshqa zamonaviy usullar qo'llangan holda amalga oshirilishi mumkin".

9. Shaxsga doir ma'lumotlarga ishlov berish shartlarini aniqlashtirish va kengaytirish maqsadida "Shaxsga doir ma'lumotlar to'g'risida"gi qonunning 18-moddasiga quyidagi tahrirdagi **4-qism bilan** to'ldirish:

"Davlat organlari va tashkilotlari zimmasiga qonun bilan yuklatilgan funksiya va vakolatlarni bajarish uchun zarur bo'lgan hollarda shaxsga doir ma'lumotlarga ularning roziligisiz ishlov berilishi mumkin. Shaxsga doir ma'lumotlarga ishlov beruvchi subyekt(operator)ning yoki uchinchi shaxslarning qonuniy manfaatlarini ta'minlash uchun zarur bo'lgan hollarda roziliksiz ishlov berilishi mumkin, bundan shaxsga doir ma'lumotlar subyektining asosiy huquq va erkinliklari ustun bo'lgan hollar mustasno".

10. "Shaxsga doir ma'lumotlar to'g'risida"gi qonunning 30-moddasi 1-bandi quyidagi mazmundagi **sakkizinchi xatboshi** bilan to'ldirish lozim:

"Shaxsga doir ma'lumotlar subyektini o'z ma'lumotlarini to'g'rilash, to'ldirish, bloklash va yo'q qilishni, shuningdek ma'lumotlar o'chirilganligi yoki ular almashtirilganligi to'g'risida xabardor etilishni so'rash huquqiga ega".

11. Avtomatlashtirilgan qaror qabul qilish va profillashtirish jarayonlarida shaxsiy ma'lumotlar himoyasini ta'minlash maqsadida "Shaxsga doir ma'lumotlar to'g'risida"gi qonunning 25-moddasini quyidagi mazmundagi **5-qism bilan** to'ldirish:

"Faqat avtomatlashtirilgan ishlov berish asosida, shu jumladan profillash natijalariga ko'ra shaxsga doir qarorlar qabul qilish taqiqlanadi. Ushbu qoida quyidagi hollarga nisbatan qo'llanilmaydi: qaror ma'lumotlar subyektini bilan tuzilgan shartnoma ijrosi uchun zarur bo'lsa yoki ma'lumotlar subyektini aniq va ochiq rozilik bildirgan bo'lsa; qaror qonun hujjatlari bilan ruxsat etilgan bo'lsa va ma'lumotlar subyektining huquq va erkinliklarini himoya qilishning tegishli choralari nazarda tutilgan bo'lsa".

12. Subyektning maxsus maxfiy ma'lumotlariga nisbatan himoya choralari kuchaytirib, unga qo'shimcha kafolatlar berishga xizmat qilgan quyidagi mazmundagi taklif "Shaxsga doir ma'lumotlar to'g'risida"gi qonuni **26-moddaning uchinchi qismini** ishlab chiqishda foydalanilgan:

*“Subyektning shaxsini aniqlash uchun foydalaniladigan biometrik va genetik ma’lumotlarga faqat mazkur **subyektning roziligi mavjud bo’lgan taqdirda, bundan O‘zbekiston Respublikasining xalqaro shartnomalarini ro’yobga chiqarish, odil sudlovni amalga oshirish, ijro ishini yuritish bilan bog‘liq hollar mustasno, shuningdek qonunchilikda nazarda tutilgan boshqa hollarda ishlov berilishi mumkin**”.*

13. Shaxsga oid ma’lumotlarga o‘zboshimchalik bilan ishlov berishga yo‘l qo‘ymaslikka va shaxsga oid ma’lumotlar ishonchli huquqiy himoya qilinishi ta’minlashga zamin bo‘lib xizmat qilgan quyidagi mazmundagi taklif **“Shaxsga doir ma’lumotlar to‘g‘risida”gi qonuni 31-moddaning ikkinchi qismining oltinchi xatboshisi** ishlab chiqilishida foydalanilgan:

“Mulkdor va (yoki) operator qonunchilikda nazarda tutilgan hollarda subyektning o‘z shaxsga doir ma’lumotlariga ishlov berish uchun roziligi olinganligi dalilini taqdim etishi lozim

14. “Axborotlashtirish to‘g‘risida”gi qonun, “Shaxsga doir ma’lumotlar to‘g‘risida”gi qonun va “Axborot erkinligi tamoyillari va kafolatlari to‘g‘risida”gi qonundagi “mulkdor” atamasini chiqarib tashlash hamda uni “nazoratchi” tushunchasi bilan almashtirish zarur. Bu Big Data elementlarining huquqiy maqomini aniqlashtirish va ularni himoya qilishda yagona yondashuvni ta’minlaydi. Shu bilan birga, ushbu qonunlarda “ma’lumotlar nazoratchisi” tushunchasiga ta’rif berish va uning huquqiy maqomini belgilash lozim. Masalan, quyidagi normani kiritish mumkin: *“Ma’lumotlar nazoratchisi - ma’lumotlarga ishlov berish maqsadlari va vositalarini belgilaydigan, shuningdek ma’lumotlarning qonuniyligi, sifati va xavfsizligi uchun mas’ul bo‘lgan jismoniy yoki yuridik shaxs”.*

Bunda “nazoratchi”ning huquq va majburiyatlari, javobgarligi masalalari ham aniq belgilab berilishi kerak.

15. Tadqiqotchi tomonidan berilgan takliflar O‘zbekiston Respublikasi Vazirlar Mahkamasining 2022-yil 5-oktabrdagi “Shaxsga doir ma’lumotlarga ishlov berish sohasidagi ayrim normativ-huquqiy hujjatlarni tasdiqlash to‘g‘risida”gi 570-son qarori bilan tasdiqlangan Shaxsga doir ma’lumotlarga ishlov berishda ularning himoya qilinganlik darajasini belgilash to‘g‘risidagi nizom ishlab chiqilishida inobatga olingan. Xususan,

-5-bandi o‘ninchi xatboshisi ishlab chiqilishida:

“Hamma foydalanishi mumkin bo‘lgan ma’lumotlar - subyektning roziligi bilan erkin foydalanilishi mumkin bo‘lgan yoki maxfiylikka rioya etishga doir talablar tatbiq etilmaydigan ma’lumotlar”. (Ushbu normani, shuningdek, “Shaxsga doir ma’lumotlar to‘g‘risida”gi qonun “4-modda. Asosiy tushunchalar” qismiga kiritish maqsadga muvofiq)

-7-bandi birinchi xatboshisini ishlab chiqishda:

“Shaxsga doir ma’lumotlarning xavfsizligiga tahdidlar - ma’lumotlar bazasiga ruxsatsiz, shu jumladan tasodifiy kirish natijasida shaxsga doir ma’lumotlarni o‘zgartirish, to‘ldirish, ulardan foydalanish, ularni berish, tarqatish, uzatish, egasizlantirish, yo‘q qilish, nusxalash, shuningdek, boshqa noqonuniy harakatlarga olib kelishi mumkin bo‘lgan shart-sharoitlar va omillar yig‘indisi”.

-14-bandini ishlab chiqishda:

“Ma’lumotlar bazalarida shaxsga doir ma’lumotlarga ishlov berishda ularni himoya qilishning 4-darajasini ta’minlash uchun quyidagi talablar bajarilishi kerak:

ma’lumotlar bazalari joylashgan binolarning xavfsizlik rejimini tashkil etish, ushbu binolarga kirish huquqiga ega bo’lmagan shaxslarning nazoratsiz kirishi yoki ushbu binolarda qolishining oldini olish;

shaxsga doir ma’lumotlar mavjud bo’lgan moddiy jismlar xavfsizligini ta’minlash; ma’lumotlar bazalarida ishlov berilayotgan shaxsga doir ma’lumotlarga kirish, ularning xizmat (mehnat) vazifalarini bajarishi uchun zarur bo’lgan shaxslar ro’yxatini belgilaydigan hujjatni mulkdor va (yoki) operator rahbari tomonidan tasdiqlash;

shaxsga doir ma’lumotlarni mavjud tahdidlardan himoya qilish, zarurat bo’lganda axborot xavfsizligi sohasidagi qonunchilik talablariga muvofiqligini baholash tartibidan o’tgan axborot xavfsizligi vositalaridan foydalanish.

III. Amaliy taklif va tavsiyalar:

1. Davlat organlari va xo‘jalik yurituvchi subyektlar faoliyatida Big Data texnologiyalarini keng joriy etish bo‘yicha uzoq muddatli dasturlarni ishlab chiqish va amalga oshirish lozim. Tadqiqot natijalari shuni ko‘rsatadiki, bunda quyidagi jihatlar hisobga olinishi zarur:

turli sohalarda Big Data texnologiyalarini faol qo‘llash, ma’lumotlar almashinuvi va tahlilini yaxshilash;

Big Data bilan ishlovchi kadrlar tayyorlash tizimini yo‘lga qo‘yish, oliy ta’lim muassasalarida tegishli yo‘nalishlarni ochish;

ma’lumotlar xavfsizligi va shaxsiy ma’lumotlar himoyasi bo‘yicha yuqori standartlarni belgilash va ularning ijrosini ta’minlash;

innovatsion g‘oyalarni Big Data asosida amalga oshirish, venchur investitsiyalarni jalb qilishni rag‘batlantirish;

ma’lumotlar sifati va ishonchliligini oshirish, ma’lumotlarni anonimlashtirish va zaxiralash tizimlarini va boshqa usul va vositalarni joriy etish.

2. Xo‘jalik yurituvchi subyektlar Big Data texnologiyalarini qo‘llashda shaffoflik, hisobdorlik va javobgarlik tamoyillariga amal qilishlari zarur. Tadqiqot ko‘rsatadiki, xususan:

ma’lumotlarni to‘plash va ishlatishning maqsadlari va shartlari oshkor etilishi;

ma’lumotlar subyektlarining huquqlarini ta’minlash, ularning roziligini olish mexanizmlari yaratilishi;

ma’lumotlar xavfsizligi va maxfiyligini ta’minlash, ulardan noqonuniy foydalanishning oldini olish;

ma’lumotlar bilan bog‘liq faoliyat ustidan ichki va tashqi nazoratni o‘rnatish kerak.

3. Fuqarolik jamiyati institutlari va ommaviy axborot vositalari Big Data texnologiyalarining joriy etilishi, ulardan foydalanish va nazorat qilishda faol ishtirok etishlari lozim. Bunda quyidagi jihatlar muhim hisoblanadi:

aholining Big Data borasidagi huquqiy savodxonligini oshirish, ijobiy va salbiy jihatlari to'g'risida xabardorlikni yuksaltirish;

ma'lumotlar sohasidagi qonunchilikni ishlab chiqish va qabul qilishda jamoatchilik ishtirokini kengaytirish, ekspertlar va manfaatdor tomonlar muloqotini yo'lga qo'yish;

ma'lumotlarga asoslangan qarorlar va faoliyat ustidan nodavlat nazoratni amalga oshirish, shaffoflikni ta'minlash.

4. Xalqaro hamkorlikni rivojlantirish va ilg'or tajribalarni o'rganish Big Data sohasi rivojida muhim omillardan biri hisoblanadi. Tadqiqot yakunlari bo'yicha shu maqsadda:

ma'lumotlar sohasida faoliyat yurituvchi tashkilotlar bilan yaqin aloqalarni yo'lga qo'yish;

ma'lumotlar xavfsizligi va sifatiga oid xalqaro standartlarni milliy qonunchilikka implementatsiya qilish;

davlatlar va kompaniyalar o'rtasida ma'lumotlar almashinuvini yo'lga qo'yish, xalqaro ilmiy va innovatsion loyihalarni qo'llab-quvvatlash talab etiladi.

5. Big Data texnologiyalaridan foydalanish jarayonida yuzaga kelishi mumkin bo'lgan ijtimoiy-iqtisodiy va axloqiy muammolarni o'rganish, ularning oqibatlarini yumshatish choralarini ishlab chiqish zarur. Tadqiqot davomida aniqlangan ba'zi muammolar, xususan, madaniyat va diniy qadriyatlar, ijtimoiy adolat, diskriminatsiyaning oldini olish kabi masalalar doimo e'tibordan chetda qolmasligi kerak. Buning uchun Big Data loyihalarining ijtimoiy ekspertizasini o'tkazish, ularning ijtimoiy oqibatlari monitoringini yo'lga qo'yish, etika qo'mitalarini tuzish kabi choralarni ko'rish lozim.

Bundan tashqari, tadqiqot xulosalariga ko'ra, Big Data sohasining institutsional asoslarini mustahkamlash uchun bu boradagi davlat siyosatini amalga oshirishga mas'ul bo'lgan vakolatli organlar tizimini takomillashtirish, ularning faoliyatini muvofiqlashtirish va nazorat qilish mexanizmlarini ishlab chiqish, shuningdek, davlat organlari, tadbirkorlik subyektlari, ilmiy muassasalar va fuqarolik jamiyati institutlari o'rtasida samarali hamkorlikni yo'lga qo'yish talab etiladi.

Yuqoridagi taklif va tavsiyalar O'zbekiston Respublikasi qonunchiligini Big Data fenomeni bilan bog'liq yangi huquqiy munosabatlarni to'liq qamrab olishga va samarali tartibga solishga xizmat qiladi. Ularning qabul qilinishi Big Data ishtirokchilarining intellektual mulk huquqlarini himoya qilish, ular o'rtasidagi manfaatlar balansini va shaxsiy ma'lumotlar himoyasini ta'minlash, ilmiy-texnikaviy taraqqiyot va innovatsiyalarni rag'batlantirish hamda sohada halol raqobat muhitini yaratishga yordam beradi.

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TASHKENT STATE UNIVERSITY OF LAW

MAMANAZAROV SARDOR SHUKHRATOVICH

CIVIL LEGAL REGIME OF BIG DATA

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

**doctoral (PhD) dissertation abstract
on legal sciences**

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Scientific supervisor:

Rashidov Komil Kayumovich
Doctor of Science in Law, Professor

Official opponents:

Gulyamov Said Saidakhrarovich
Doctor of Science in Law, Professor

Safoyeva Sadokat Musoyevna
Candidate of Science in Law

The leading organization:

**The Institute of Parliamentary Studies
under the Legislative Chamber of the
Oliy Majlis of the Republic of Uzbekistan**

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(Registry protocol No.51 on September 5, 2024)

I.R. Rustambekov

Chairman of the Scientific Council for
awarding scientific degrees, Doctor of
Science in Law, Professor

D.Yu. Khabibullayev

Secretary of the Scientific Council for
awarding scientific degrees, Doctor of
Science in Law, Professor

B.K.Khodjayev

Chairman of the Scientific Seminar under
the Scientific Council for awarding
scientific degrees, Doctor of Science in
Law, Professor

INTRODUCTION (annotation of the doctoral (PhD) dissertation)

Relevance and necessity of the dissertation theme. With the development of Big Data technologies in the world, the volume and variety of data is increasing at an unprecedented level. According to their research, by 2023 the market of Big Data and analytical solutions reached 274 billion dollars¹. In turn, the protection of Big Data, its elements, and new knowledge and information created as a result of Big Data analysis as intellectual property objects is becoming an urgent issue. In Big Data projects, data from different sources are combined and processed, which creates problems in identifying and protecting intellectual property rights. Therefore, in order to overcome these problems, the current rapid information age requires conducting research aimed at developing new and more effective legal mechanisms regulating intellectual property rights in the context of Big Data.

According to forecasts, by 2025, the volume of global data is expected to reach 175 zettabytes². A significant part of this data, according to various estimates, from 20 to 30 percent is personal data³. With the rapid development of digital technologies in Uzbekistan, the volume of data collected for Big Data purposes, especially personal data, is increasing sharply. According to the Ministry of Information Technologies and Communications Development of the Republic of Uzbekistan, at the end of 2020, personal data of 17 million 822 thousand citizens were available in 318 information systems and 84 databases of ministries and agencies⁴. As a result of the large-scale collection and analysis of such personal data, the privacy of citizens, the confidentiality and protection of personal data are at risk. Therefore, in our country, issues related to ensuring the confidentiality and legal protection of personal data of subjects are considered urgent and require appropriate research.

According to statistics, 2.5 million gigabytes of data are created every second worldwide, and this figure is increasing by 40% every year⁵. The exponential growth of data requires new methods of analysis and processing. Big Data technologies are one of the important solutions in this regard, they allow real-time analysis of terabytes and even petabytes of data. In Uzbekistan, the introduction and development of Big Data technologies is defined as an important direction of state policy. In particular, in the "Digital Uzbekistan - 2030" strategy⁶ approved by the Decree of the President of the Republic of Uzbekistan No. PD-6079 of October 5, 2020, the President of the Republic of Uzbekistan "Measures to improve the

¹ <https://www.oxfordcorp.com/en/the-big-small-of-big-data-and-why-it-matters/>

² Statista, "Volume of data/information created, captured, copied, and consumed worldwide from 2010 to 2025", 2021. <https://www.statista.com/statistics/871513/worldwide-data-created/>

³ TechJury, "How Much Data Is Created Every Day in 2022?", 2022. <https://techjury.net/blog/how-much-data-is-created-every-day/>

⁴ O'zbekiston Respublikasi Axborot texnologiyalari va kommunikatsiyalarini rivojlantirish vazirligi, "Davlat organlarining axborot tizimlari va ma'lumotlar bazalarida fuqarolarning shaxsiy ma'lumotlari soni", 2021. <https://mitc.uz/uz/pages/232-davlat-organlarining-axborot-tizimlari-va-malumotlar-bazalarida-fuqarolarning-shaxsiy-malumotlari-soni>

⁵ Domo, "Data Never Sleeps 8.0", 2020. <https://www.domo.com/learn/infographic/data-never-sleeps-8>

⁶ O'zbekiston Respublikasi qonun hujjatlari milliy bazasi, ""Raqamli O'zbekiston - 2030" strategiyasini tasdiqlash va uni samarali amalga oshirish chora-tadbirlari to'g'risida"gi O'zbekiston Respublikasi Prezidentining Farmoni, 2020. <https://lex.uz/docs/5031048>

civil legislation of the Republic of Uzbekistan"¹ as well as PD-4996 dated February 17, 2021 "On measures to create conditions for rapid introduction of artificial intelligence technologies"² and dated February 26, 2021 In the decisions of August PD-5234 "On measures to introduce a special regime for the use of artificial intelligence technologies"³, the development of Big Data infrastructure, ensuring its legal regulation, and data processing with modern methods tasks such as the organization of processing centers are defined, which also indicates the relevance of the topic.

In Uzbekistan, the issue of personal data protection is gaining urgent importance. On July 2, 2019, the Law "On Personal Data"⁴ was adopted, according to this law, which regulates the collection, processing, transfer, and use of personal data. norms are set. However, in a situation where Big Data technologies are rapidly developing, legal norms are not enough. The legal status of Big Data elements, their protection mechanisms, and issues of data use also require modern approaches.

From this point of view, the development of Big Data in Uzbekistan today, ensuring the protection of personal data in the process of its use, and improving its legal basis are of great importance. It is necessary to take into account international standards and best practices. For example, the General Data Protection Regulation (GDPR) of the European Union is today recognized as a standard at the international level⁵.

Legislation and protection mechanisms related to Big Data are also being actively developed in foreign countries. In the USA, the Federal Trade Commission has developed the guideline "Fair Big Data: Algorithms, Discrimination and Privacy"⁶. It is also 2021 in the People's Republic of China the Law "On Personal Data Protection" came into force on November 1⁷. Japan and Singapore have an excellent legal framework and practice in terms of data protection⁸.

The above figures and examples show that the study of topical issues related to the application of Big Data analysis and the regulation of relations related to

¹ O'zbekiston Respublikasi Prezidentining farmoyishi, 05.04.2019 yildagi F-5464-son <https://lex.uz/uz/docs/-4272621>

² O'zbekiston Respublikasi qonun hujjatlari milliy bazasi, "Sun'iy intellekt texnologiyalarini jadal joriy etish uchun shart-sharoitlar yaratish chora-tadbirlari to'g'risida"gi PQ-4996-son O'zbekiston Respublikasi Prezidentining Qarori, 2021. <https://lex.uz/docs/-5297046>

³ O'zbekiston Respublikasi qonun hujjatlari milliy bazasi, "Sun'iy intellekt texnologiyalarini qo'llash bo'yicha maxsus rejimni joriy qilish chora-tadbirlari to'g'risida"gi PQ-5234-son O'zbekiston Respublikasi Prezidentining Qarori, 2021. <https://lex.uz/docs/-5603319>

⁴ O'zbekiston Respublikasi qonun hujjatlari milliy bazasi, "Shaxsga doir ma'lumotlar to'g'risida"gi O'zbekiston Respublikasi Qonuni, 2019. <https://lex.uz/docs/4396428>

⁵ Yevropa Ittifoqi, "General Data Protection Regulation (GDPR)", 2018. <https://gdpr-info.eu/>

⁶ Federal Trade Commission, "Big Data: A Tool for Inclusion or Exclusion?", 2016. <https://www.ftc.gov/system/files/documents/reports/big-data-tool-inclusion-or-exclusion-understanding-issues/160106big-data-rpt.pdf>

⁷ People's Congress of the People's Republic of China, Personal Information Protection Law, 2021 <https://personalinformationprotectionlaw.com/>

⁸ Yaponiya hukumati, "Japan's Data Strategy", 2021. https://www.digital.go.jp/assets/contents/node/basic_page/field_ref_resources/0f321c23-517f-439e-9076-5804f0a24b59/20210901_en_05.pdf

data protection in our country requires a level that meets modern requirements. Ensuring Uzbekistan's compliance with global trends and standards in the field of informatization and digital economy is an important factor in our socio-economic development.

Correspondence of the research to the main priority areas of development of science and technology of the republic. Dissertation research was carried out in accordance with the priority direction "Formation of a system of innovative ideas and ways of their implementation in the social, legal, economic, cultural, spiritual, and educational development of the information society and the democratic state".

The degree to which the problem has been studied. It is known that the issues of Big Data and its legal regulation have occupied a large place in the research of foreign and domestic scientists in recent years. In particular, in the scientific works of M. Mandel and S. Barth, the importance of Big Data in the field of economy and business is considered¹. Scholars such as J. Ginsburg, J. Drexl, M. Leistner, Julie E. Cohen, and William M. Martin have researched property rights and intellectual property issues related to Big Data^{2 3}. In the works of V. Mayer-Shonberger, K. Kukyer, N. Purtova, and P. M. Schwartz, the problems and prospects of personal data protection in the framework of Big Data, and in the works of L. Vasilevskaya⁴ and I. Z. Ayusheeva⁵, the civil legal nature of Big Data is highlighted⁶.

General aspects of intellectual property in the national legal system of Uzbekistan were studied by H. Rahmonkulov, O. Okyulov, S. Gulyamov, I. Rustambekov, N. Imomov, I. Nasriyev, and other scientists.

In the research of local scientists S. Gulyamov, I. Rustambekov, K. Mekhmonov, Kh. Paluaniyazov, N. Raimova, N. Khatamova, S. Safoyeva, Z. Akramkhodjaeva, S. Bozarov, B. Musayev and others⁷, Big Data, information database, some aspects of artificial intelligence, and data protection are studied. However, most of the sources mentioned above and related to the topic only analyzed the problem in a narrow framework. In the ongoing research, it is planned to study the problem comprehensively, that is, from the legal and practical point of view.

¹ M.Mandel, "Beyond Goods and Services: The Need for Innovation in Data and Services", 2013. https://www.progressivepolicy.org/wp-content/uploads/2012/10/10.2012-Mandel_Beyond-Goods-and-Services_The-Unmeasured-Rise-of-the-Data-Driven-Economy.pdf

² J.Drexl, "Designing Competitive Markets for Industrial Data - Between Propertisation and Access", 2017. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2862975

³ Leistner, Matthias and Antoine, Lucie, IPR and the Use of Open Data and Data Sharing Initiatives by Public and Private Actors (May 3, 2022). Study commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the Committee on Legal Affairs 2022, available at: [https://www.europarl.europa.eu/thinktank/en/document/IPOL_STU\(2022\)732266](https://www.europarl.europa.eu/thinktank/en/document/IPOL_STU(2022)732266), Available at SSRN: <https://ssrn.com/abstract=4125503> or <http://dx.doi.org/10.2139/ssrn.4125503>

⁴ Василевская Л. Ю., Подузова Е. Б., Тасалов Ф. А. Цифровизация гражданского оборота: Big Data в механизме гражданско-правового регулирования (цивилистическое исследование): монография: в 5 т. Т. 5 / отв. ред. Л. Ю. Василевская. М.: Проспект, 2023. С. 13–14.

⁵ Аюшеева И. З. Большие данные: проблемы определения гражданско-правового режима. Lex russica. 2023. Т. 76. № 10. С. 125–134. DOI: 10.17803/1729-5920.2023.203.10.125-134

⁶ V. Mayer-Shönberger, K. Cukier, "Big Data: A Revolution That Will Transform How We Live, Work, and Think", 2014. <https://academic.oup.com/aje/article/179/9/1143/2739247>

⁷ Mazkur olimlar asarlarining ro'yxati dissertatsiyaning foydalanilgan adabiyotlar ro'yxatida berilgan.

The relatedness of the research to the research plans of the scientific organization or educational institution where the dissertation was completed. The research work was carried out within the framework of the scientific research work plan of Tashkent State University of Law entitled "Civil-legal nature of Big Data (data) and issues of legal provision of data protection within the framework of Big Data" (2021-2024).

The aim of the research is to determine the civil-legal nature of legal relations in the field of Big Data and to develop a scientific concept of their legal regulation to prepare relevant proposals for legal protection and confidentiality of subjects' data.

Research objectives:

Analyzing the legal regime of Big Data concept, essence and specific features from a civil-legal point of view, determining their place in the system of civil law objects.

Determining the property status of Big Data elements, revealing the content and scope of property rights in relation to Big Data, developing mechanisms for their identification and inclusion in civil circulation.

Identifying the basis of legal protection of confidential information contained in Big Data;

To study the relationship between personal data and Big Data, to clarify the civil-legal and other aspects of their protection.

To determine the perspectives of application of intellectual property institutions in relation to Big Data and to offer effective models of recognition and protection of Big Data products as objects of intellectual property.

Development of basic principles and mechanisms of personal data protection and confidentiality in Big Data conditions;

Analysis of international standards and guidelines such as GDPR, OECD, and APEC in guaranteeing the rights of data subjects in the context of Big Data and their use in improving national legislation.

Elucidate the content of data subjects' data portability, privacy, consent to data processing and other rights, develop mechanisms for the implementation of these rights.

Comparative analysis of the practice of legal regulation in the field of Big Data in foreign countries, generalization of best practices.

Development of scientifically based recommendations on improving the legislation of Uzbekistan.

The object of the research is the system of civil-legal relations based on Big Data technologies, including relations related to data processing and protection processes.

The subject of the research is the legal nature of Big Data and its elements, determining the property status, including them in civil circulation, scientific and practical problems related to regulation of protection, international legal documents, legislation and practice of foreign countries, national legislation and law enforcement practice, and existing conceptual approaches, scientific-theoretical views, and legal categories.

Research methods. In the framework of the research, common general and special methods of scientific knowledge were used comprehensively. In particular, general methods such as analysis and synthesis, induction and deduction, abstraction, and systematic approach were used. Special methods such as comparative-legal, formal-legal, statistical analysis, empirical observation-social survey were also used. It should be said that modern innovative approaches were comprehensively used in this study along with traditional legal methods.

The scientific novelty of the research is determined by the following scientific results:

biometric and genetic data used to determine the subject's identity are justified only on the basis of the subject's consent;

the request of the owner and (or) the operator to provide proof of the consent of the subject for the processing of the subject's personal data in the cases stipulated by the law;

the category and concept of information that can be used by everyone, that is, that can be freely used with the consent of the subject or that are not subject to confidentiality requirements, are justified;

proposals to reflect the legal definition of the concepts of threats to the security of personal information in the legislation are substantiated;

the requirements for the protection of personal data in the processing of personal data in databases have been developed and substantiated.

Practical results of the research:

An excellent concept and model of regulation of legal relations within Big Data is proposed;

Mechanisms for introducing Big Data into civil circulation and directing it to the development of the digital economy have been developed;

A set of legal measures providing an acceptable level of security in relation to personal data is provided;

Practical suggestions on harmonizing national legislation with international standards, in particular, the requirements of the European Union and OECD;

Recommendations on improving the norms regulating the civil-legal treatment of data and the legal status of Big Data subjects have been developed;

Implementation of effective mechanisms for protection of Big Data and its elements as intellectual property (copyright, sui generis right, commercial secrets) is based;

Legal and organizational measures aimed at strengthening the protection of confidential information in the framework of Big Data are proposed;

Recommendations are made to reflect modern principles and mechanisms of personal data protection in the context of Big Data in national legislation;

The concept of a universal Big Data Code has been developed, which is a comprehensive legal framework (framework) for the regulation of the legal status of Big Data, the regulation of property rights to it, and ethical principles.

The reliability of the research results. The reliability of the research results is explained by the use of methods recommended by foreign scientists, the analysis of international law and national legislation norms, the experience of developed

countries, law enforcement practice, the generalization and documentation of the results, the implementation of proposals in practice and their approval by authorized bodies, as well as the publication of the results in leading publications.

The scientific and practical significance of the research results.

The results of the research can be used in the law-making process, in particular, in the improvement of legislation in the field of Big Data and personal data. At the same time, the obtained conclusions can be practically applied in the implementation of projects aimed at the development of the digital economy, in the introduction of Big Data technologies and in ensuring data protection.

Also, from the results of the research, improvement of legislation in the field of intellectual property of the Republic of Uzbekistan, teaching of the subjects "International Private Law", "Civil Law", "Cyber Law", "International Commercial Law", "Intellectual Property Law" and in these subjects it can be used to create written textbooks and training manuals, to prepare lecture texts, programs of training courses, scientific-research works, and to increase the legal consciousness and culture of citizens.

The implementation of the research results. Based on the results of the research:

biometric and genetic data used to determine the subject's identity only in the case of the subject's consent, except for cases related to the implementation of international agreements of the Republic of Uzbekistan, the implementation of justice, and enforcement proceedings, as well as the proposal that it can be processed in other cases provided by the legislation was used in the development of the third part of Article 26 of the Law of the Republic of Uzbekistan "On Personal Data" (Decision of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan dated 18.2024 Act of April). The introduction of this proposal served to strengthen the protection measures against the special confidential information of the subject and to provide it with additional guarantees;

proposal for the owner and (or) operator to provide proof of the subject's consent for the processing of his/her personal data in the cases provided for by the law. Law of the Republic of Uzbekistan "On Personal Data" 31 taken into account in the development of the sixth paragraph of the second part of the article (Deed of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan dated April 18, 2024). The introduction of this proposal is intended to ensure that the operator (owner) does not use personal data without permission, to prevent arbitrary processing of personal data and to ensure reliable legal protection of personal data;

a proposal for the concept of information that can be freely used with the consent of the subject or that does not apply requirements for confidentiality are considered information that can be used by everyone, according to the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated October 5, 2022 "Personal Clause 5, tenth paragraph of the Regulation on determining the level of protection of personal data in the processing of personal data, approved by Decision No. 570 "On approval of certain regulatory legal documents in the field of data processing taken into account in the development (reference of the Cabinet

of Ministers of the Republic of Uzbekistan dated June 27, 2024). The introduction of this proposal served to ensure a uniform approach to information that can be used by everyone;

threats to the security of personal data mean changing, filling, using, giving, distributing, transferring, misappropriating, destroying personal data as a result of unauthorized access to the database, including accidental access, copying, as well as the proposal to understand the set of conditions and factors that can lead to other illegal actions, issued by the Cabinet of Ministers of the Republic of Uzbekistan dated October 5, 2022 "Some normative and legal acts in the field of personal data processing 570 "On approval of documents" was taken into account in the development of the first paragraph of clause 7 of the regulation on determining the level of protection of personal data in the processing (2024 of the Cabinet of Ministers of the Republic of Uzbekistan - reference dated June 27). The introduction of this proposal clarified the concept of threats to the security of personal information, what actions are considered threats to the security of information;

to ensure the 4th level of protection for personal data processing in databases, the following requirements must be met: organization of the security regime of the premises where the databases are located, uncontrolled access of persons who do not have access to these premises, or to prevent them from staying in these buildings; to ensure the safety of material objects containing personal information; approval by the owner and (or) head of the operator of the document defining the list of persons required to access information about the person processed in the databases to perform their service (labor) duties; the proposal to protect personal information from existing threats; and, if necessary, to use information security tools that have passed the procedure for assessing the compliance with the legal requirements in the field of information security, according to the Decree of the Cabinet of Ministers of the Republic of Uzbekistan dated October 5, 2022, it was taken into account in the development of paragraph 14 of "The regulation on determining the level of protection of personal data in the processing of personal data" approved by the decision No. 570 (Reference of the Cabinet of Ministers of the Republic of Uzbekistan dated June 27, 2024). The introduction of this proposal served to introduce requirements that ensure the protection of personal data.

Approbation of the research results. The results of the research were discussed at 5, including 3 international and 2 national scientific-practical conferences.

Publication of the research results. A total of 11 scientific works on the topic of the dissertation, including 11 (including 2 in foreign publications) scientific articles and abstracts were published in scientific journals and collections.

The structure and volume of the dissertation. The dissertation structurally consists of an introduction, three chapters, a conclusion, a list of references, and appendices. The total volume of the research is 156 pages.

THE MAIN CONTENT OF THE DISSERTATION

In the **introduction** of the dissertation includes (annotation of the doctoral dissertation) the relevance and necessity of the research topic, the connection of the research with the main priority directions of the development of science and technology of the republic, the level of research of the researched problem, the connection of the dissertation topic with the scientific and research work of the higher educational institution where the dissertation is being carried out, the goals and objectives of the research, object and subject, methods, scientific novelty and practical result of the research, reliability of the research results, scientific and practical significance of the research results, their introduction, approval of the research results, publication of the results and the size and structure of the dissertation that are explained.

The first chapter of the dissertation entitled "**The concept, essence and legal nature of Big data**" analyzes the origin, essence and main features of the concept of Big Data, as well as its theoretical and legal foundations. By determining the time and place when the term Big Data was first used, by studying and comparing different views on this matter, the stages of formation of the Big Data phenomenon are highlighted. In the study, the views and definitions of Big Data of experts such as John Mashie and Doug Laney were studied from a critical point of view. Also, Gantz, Rainsel, Tzikopoulos, Boyd, Crawford, Mayer-Schönberger, and Cukier, A.K. The scientific conclusions of scientists such as Zharov on the concept of Big Data and its characteristics are analyzed, and the author's definition is given. According to the researcher, "Big Data is a rapidly growing and diverse set of data collected from various sources with the help of digital technologies, which exceeds the capabilities of traditional methods for processing, storing, and analyzing."

The main characteristics and features of the concept of big data are distinguished by the criteria of volume, velocity, variety, veracity, and value. Specifically, volume is one of the most important features of big data, encompassing data measured in petabytes and exabytes. Velocity refers to the rapid accumulation, processing, and analysis of big data. Variety indicates that big data includes information from various sources, in different formats, and of different types. Veracity represents the accuracy, reliability, and quality of big data. Lastly, value reflects the economic and social significance of big data.

The researcher has made a comparative study of the differences between Big Data and traditional data and databases.

The author described Big Data not only as a technological phenomenon, but as a multifunctional phenomenon affecting socio-economic and legal relations.

The issue of the legal nature of Big Data has been extensively discussed. Similarities and differences of Big Data with tangible and intangible benefits are analyzed. In particular, the researcher notes that aspects of Big Data that do not have a material form, exist in digital form, can be used multiple times, and are easy to copy make them different from material goods, at the same time, in some cases, Big Data has characteristics specific to material goods. It is disclosed that it can

have, for example, have value and be an object of trade and exchange.

At the same time, it is argued that the creation of Big Data as a result of ideas, knowledge and information, and its acquisition of value brings it closer to intangible benefits. Big Data is characterized by the characteristics of more intellectual output, including intangibles, reusability, and ease of copying.

Based on the specific characteristics of Big Data, the need to recognize it as an object of a new type of legal relationship has been put forward. It was emphasized that Big Data should be recognized as a separate object of civil law and a special legal regime should be created in relation to it. In particular, the need to introduce norms regulating relations regarding the creation, storage, distribution and processing of Big Data, to clarify its legal status, is justified.

Taking into account the complexity and uniqueness of the phenomenon of Big Data, the author compares more than ten concepts and theories in determining the legal regime in relation to it and puts forward a comprehensive model approach. In this case, the complex model approach is a layered rights approach (Layered Rights Approach), data trusteeship concept (Data Trusteeship Concept), licensing framework (Licensing Systems), controlled data flows (Data Sovereignty), enhanced privacy guarantees (Information Privacy Theory), including concepts and theories such as open data initiatives (Public Resource Theory) and sui generis protection (Sui Generis Database Rights). This comprehensive model allows for a structured regulation of legal relations in the field of Big Data, determining the level of protection based on the sensitivity of the data, ensuring privacy, encouraging innovations, balancing national and international interests, protecting personal data, supporting open data exchange, and safeguarding investments in the creation of valuable databases.

In the study, special attention is paid to the issue of the concept, nature and importance of personal data within the framework of Big data. It has been shown on the basis of statistical data that in the conditions of modern information technologies, the volume and scope of personal data are significantly expanding, and that personal data constitutes a significant part of the data collected in Big Data systems. In the context of big data, the transformation of the concept of personal data, leaving its traditional boundaries and acquiring new meanings and characteristics, is studied.

The definitions of the concept of personal data in the legislation of the European Union, Russia, other foreign countries, and Uzbekistan have been analyzed, noting their specific characteristics. It has been highlighted that the definition in Uzbekistan's legislation is of a general nature, emphasizing the need to clarify and expand the concept of personal data further. A comprehensive authorial definition of personal data is provided, with a proposal to introduce relevant amendments to the legislation. In particular, it is suggested that "personal data" should be defined as "information related to a person's biometric data, health and physiological condition, genetic data, geolocation data, online activity and digital footprint, as well as any information that allows for the direct or indirect identification of a person."

In the study, the issues of classification and classification of personal data were considered, and such types of personal data were identified as identification

data, demographic data, behavioral data, psychographic data and social data. It is also noted that special categories of personal data, including biometric, genetic and health data, need special protection.

It is stated that new types of personal data, including biometric, genetic and geolocation data, are emerging in the context of big data, and that IoT technologies make it possible to collect highly personal and sensitive data about the daily life and activities of individuals. The need for special legal mechanisms to protect such information is justified.

In the second chapter of the dissertation, entitled **"Property right, intellectual property right within Big data"**, the researcher studied the property-legal status of Big Data and its elements, the issues of application of property and intellectual property rights to them. Based on the specific characteristics of Big Data, the problems of applying traditional proprietary approaches to it are revealed.

The researcher examines the theoretical and practical aspects related to recognizing Big Data as an object of property rights, emphasizing that Big Data differs from tangible assets due to its lack of physical form, existence in digital format, ease of repeated use, and ease of copying. However, it is noted that Big Data can, in some cases, possess characteristics typical of tangible assets, such as having value and being an object of sale and exchange. At the same time, it is argued that the creation of Big Data as a result of ideas, knowledge and information, and its acquisition of value brings it closer to intangible benefits.

Comparative analysis of innovative approaches to data ownership issues in foreign countries, in particular fiduciary ownership, "quasi-property", "strong" and "weak" models of ownership, "data manager" It is justified that information is not like other tangible or intangible "things" and due to the specific characteristics of information, the concept of "property right" involves certain difficulties in using information in a legal sense.

Based on the analysis of international and national legal documents, it has been shown that it is appropriate to apply the rights of control and use to Big Data itself rather than property rights.

Also, the national legislation recognizes and critically analyzes rules that acknowledge Big Data elements—such as information, personal data databases, and information resources—as objects of property rights. Specifically, inconsistencies in the Civil Code and several other laws, including contradictions between property and copyright rules applied simultaneously to databases, are highlighted. To address these inconsistencies in national legislation, the author proposes replacing the concept of "owner" with "controller" for Big Data elements, and making amendments to the Civil Code to classify Big Data as an intellectual property object. These proposed changes include amendments as This includes amendments to the Civil Code, the Law "On Copyright and Related Rights" introducing Big Data as an object of intellectual property, the Law "On Information Disclosure", "Personal Data Right" The Law on Freedom of Information and the Law on Principles and Guarantees of Freedom of Information, removing the term "owner" and replacing it with the concept of "controller", these changes are unique in clarifying the legal status of Big Data elements and protecting them. These changes aim to clarify the legal status of Big Data elements

and ensure a unified approach to their protection.

During the research, the status of Big Data and its elements as an object of intellectual property was also carefully considered. In particular, it is analyzed whether Big Data and its components can be protected by copyright, database sui generis right and trade secrets. In this, the norms and precedents related to the protection of Big Data elements as intellectual property in the legislation and judicial practice of foreign countries were studied. For example, the US "Feist Publications, Inc. v. Rural Telephone Service Co., European Court of Justice Football Dataco Ltd and Others v Yahoo! UK Ltd and Others" cases have been shown to be important in determining the criteria for copyright protection of databases.

At the same time, international and national legal norms regarding the protection of databases as an element of Big Data have been assessed. In particular, authoring databases based on the analysis of the European Union Directive on Databases (96/9/EC), the Civil Code of Uzbekistan, the Law "On Copyright and Related Rights" for protection as an object of the right, the criteria of their originality, as well as serious labor spent on the selection and placement of information, are noted.

Also, taking into account advanced foreign experiences, introducing mechanisms for the protection of Big Data elements with sui generis right in Uzbekistan, in particular, Chapter 601 of the Civil Code dedicated to the institution of sui generis right. It is proposed to supplement it with a new chapter called sui generis right. In this regard, it is justified that the norms of the European Union Database Directive (96/9/EC) can be used as an example. It is shown that substantial investment in the creation of the database creates a sui generis right, and this right gives the creator the exclusive right to use the database. It is argued that the sui generis right can serve as an acceptable tool for effective protection of Big Data elements.

In addition, the dissertation examines the possibilities of protecting Big Data and its elements as trade secrets. The provisions governing the relationship between Big Data and trade secrets in US and EU legislation and case law are analyzed. In particular, the US courts "Wellogix v. Accenture", "Michelin v. Decisions confirming the protection of Big Data elements as trade secrets in cases such as Tire Kingdom" are analyzed.

The third chapter of the dissertation, entitled "**Basic rules for data protection and privacy in Big data**", thoroughly researches the issues of data protection and privacy in Big Data analysis. The role of the principles of fairness, reasonableness (reasonable expectation) and transparency in Big Data analysis is highlighted here. The research justifies the need for Big Data organizations to follow these principles when dealing with personal data.

The principle of fairness requires that data processing be carried out in a fair, appropriate and non-discriminatory way for the subjects, where the volume, variety and complexity of the data analysis algorithms have the risks of "profiling" and "discrimination" of the data subjects. It is stated that Big Data analysis should not be discriminatory; it should not lead to making unfair and unreasonable decisions about individuals, and it is emphasized that organizations should minimize the

negative consequences of personal data processing, including the risk of discrimination.

At the same time, the dissertation analyzes the essence of the principle of "reasonable expectations" and provides an objective idea of how data subjects will process their data when they provide it. And it is stated that he has the right to "reasonable expectation" in this regard. Based on a comparative legal analysis, the researcher showed that the "reasonable expectation" standard is provided for in the legislation of countries such as the USA, Japan, Canada, and Singapore, and the proposals to include this principle in the legislation of Uzbekistan were substantiated.

In Big Data projects, the need to prevent data processing from remaining a "black box" and to ensure process transparency has been revealed.

Ensuring transparency in data processing, including informing data subjects about how data is being used, is an important responsibility of Big Data organizations, and that transparency should cover all stages of data collection, use, and disclosure, which is argued to allow subjects to exercise control over their data.

The conditions for the processing of personal data, including consent, legitimate interests, and the specificity of contractual relations, are analyzed. The challenges of obtaining consent in Big Data analysis are highlighted, while its importance is emphasized, and the need to introduce new, flexible models of obtaining consent is shown. In particular, it is justified that it is desirable to obtain consent step by step, provide information in real time, and introduce automated consent systems.

It is revealed that data processing based on legitimate interests can be an alternative basis in the context of Big Data, in which the interests of organizations should be balanced with the rights of subjects, but this condition should not create a high risk for the data subject and should not limit his rights.

The placement and processing of personal data on digital platforms, the regulation of the relationship between the platform and the user through a contract, the fact that contracts can have different legal nature, and the specific features of these contracts are comparatively analyzed.

The research reveals the role of important rules such as targeted limitation, minimization, precision, right of access, and accountability in ensuring the legal protection of data in the context of Big Data.

The principle of purposeful limitation is not an absolute obstacle to Big Data analysis, but it requires an assessment of the compatibility of the purposes of processing, that is, the use of data must be consistent with the original purpose, otherwise, additional consent from the subjects for a new purpose will be required. highlighted.

In Big Data analysis, it has been noted that there are risks of collecting too much data, not being able to manage it effectively. The principle of data minimization states that organizations should collect and store only the minimum amount of data necessary to achieve the purposes of processing, which reduces risks for subjects and reduces the liability of organizations.

The author emphasizes the critical importance of data quality and accuracy in

processing, asserting that decisions made in Big Data projects must be based on clear and reliable information. Organizations are required to ensure the accuracy, relevance, and reliability of data during collection, storage, and processing.

The right of data subjects to access their data is also important in the context of Big Data. It is justified that the right to receive a copy of the data, the need for Big Data organizations to implement effective mechanisms to ensure this right.

In the process of personal data processing, the emphasis is placed on guaranteeing the rights of the subjects; the need to take measures to ensure the "right to be forgotten" is revealed, and it is proposed to make appropriate changes to the national legislation in this regard. It has been concluded that it is important to give data subjects more control over their data, the right to modify and delete data.

CONCLUSION

In the study on the topic "Civil-legal regime of Big Data", the following scientific-theoretical, law-making, and law enforcement practice improvements were made:

I. Scientific and theoretical conclusions:

1. The fact that Big Data does not have a material form distinguishes it from material goods, but its value and the fact that it is a product of intellectual activity bring it closer to intangible goods. At the same time, Big Data differs from tangible and intangible assets by its many unique features, including its large volume, rapid creation and updating, and the inclusion of data in various formats and unstructured data. This shows that a special approach should be taken when determining the legal nature and regime of Big Data.

2. Several leading concepts and theories regarding the determination of the civil-legal regime of Big Data were considered, and a *comprehensive model approach* was put forward, taking into account the complexity and uniqueness of the Big Data phenomenon. This approach is a *layered rights approach, data trusteeship concept, licensing framework, controlled data flows, enhanced privacy guarantees (Information Privacy Theory)*, open includes data initiatives (*Public Resource Theory*) and *sui generis protection (Sui Generis Database Rights)*. These elements include determining the level of protection based on the sensitivity of data, ensuring privacy, encouraging innovation, balancing national and international interests, protecting personal data, supporting open data exchange, and providing valuable information aimed at protecting investments in the creation of databases. This approach allows for comprehensive regulation of legal relations in the field of Big Data.

3. The fact that special legal documents clearly defining the legal status and regime of Big Data, recognizing Big Data as an object of civil law and regulating issues of property rights or property rights in relation to it have not yet been found in the experience of any country; only organizational efforts are being made in this regard was determined. According to the results of the research, the main reason for this was the fact that Big Data is a new concept, its unique complex structure, and the difficulty of including it among tangible and intangible property objects.

However, to date, the need to develop a special legal document that clearly defines the legal status of Big Data and its elements has been further revealed during the research. Based on this need, the concept of the **Universal Big Data Code**, which can serve as a "*soft law*", that is, a legal document of a recommendatory, exemplary nature, was developed as a result of research.

4. In relation to Big Data, copyright is applied based on the norm that collections (encyclopedias, anthologies, databases) and other collective works that are the result of creative work based on the selection or placement of materials are considered copyright objects in our national legislation. At the same time, given the complex structure of Big Data and the significant labor and investment it requires, it is essential to consider both copyright and sui generis rights for Big Data. The application of both **copyright and sui generis rights** is justified to ensure comprehensive protection for Big Data.

5. During the research, it was determined that Big Data encompasses not only traditional personal data but also new types of information, such as an *individual's behavior, values, social interactions, online activities, and purchasing habits*. This, in turn, requires new approaches to ensuring the security and privacy of personal data. It is argued that national legislation should introduce new categories of personal data, expand the scope of specific types of personal data (such as social, geolocation, online activity data, etc.), and establish high protection standards for these new categories of personal data, taking into account advanced foreign practices such as the EU's GDPR regulations and OECD guidelines. Relevant proposals for these changes have been put forward.

6. The regulation of relations in the field of Big Data is not only normative rules, but also principles and universal values such as **respect for human rights and dignity, transparency and accountability, data quality and safety, non-discrimination** are the basis of relations related to Big Data. It was concluded that it should be organized. During the research, the integration of moral norms into legal norms in the national legislation was justified.

7. Summarizing the results, it is necessary to develop targeted programs in such areas as determining the legal status of Big Data, controlling data security and quality, attracting investments in the field, and training personnel. It was concluded that it is appropriate to define a set of measures related to the development of the Big Data sector, strengthening its institutional foundations and creating its infrastructure within the framework of the national program "Digital Economy" in the conditions of Uzbekistan.

II. Proposals for further improvement of legislation:

1. It is proposed to supplement Section IV of the Civil Code of the Republic of Uzbekistan, the Law "On Copyright and Related Rights" with amendments that represent *Big Data as an object of intellectual property*.

2. To state **the fourth paragraph of Article 1031 of the Civil Code** of the Republic of Uzbekistan in the following version:

"Big Data, programs, and databases for electronic computing machines (hereinafter referred to as EHM);

3. **The first part of Article 15** of the "Law on Copyright and Related Rights"

and **the fifth item of the first part of Article 4** of the "On Personal Data" should be supplemented with the following sentence:

"Big Data is a collection of data that, with the help of digital technologies, is gathered from various sources and exceeds the capacity for processing, storage, and analysis by traditional methods, characterized by its rapid growth and diverse structure."

4. **Chapter 60-1 of the Civil Code** of the Republic of Uzbekistan on the institution of sui generis law. It is proposed to add a new chapter called *Sui generis right*. In particular, in cases where a significant investment has been made in the creation of a database within the framework of this chapter and its content, systematization, and form of presentation have become unique, a sui generis right to the database may arise, the sui generis right may be removed from the database in whole or in part. It is desirable that norms such as protection against copying or re-use of a significant part find their expression.

5. In order to further clarify and expand the concept of "personal data" in **Article 4 of the Law "On Personal Data"**, it is appropriate to state **the second paragraph of Article 4** in the following version:

"personal data - data related to a person's biometric data, health and physiological state, genetic data, geolocation data, data related to a person's online activity and digital footprint, and any information that allows direct or indirect identification of a person".

6. In order to strengthen the principles of fairness and transparency, **Article 5** of the Law of the Republic of Uzbekistan "On Personal Information" should be supplemented with the following **second and third paragraphs**:

"fairness and non-discrimination;" "implemented in accordance with the principles of legality, transparency and reasonableness (reasonable expectation)".

7. In order to strengthen the principles of purposeful limitation and minimization of data, Article 10 of the Law "On Personal Data" shall be supplemented with the following **fourth part**:

"The data processor (operator) must collect and process personal data only for predetermined, specific and legal purposes and in the minimum amount necessary to achieve these purposes."

8. Supplementing with **Article 16-1** on "Methods of Data Processing in Big Data Analysis" with the following content, which provides for special guarantees and mechanisms for the protection of personal data in Big Data analysis:

"When processing personal data using Big Data technologies, it can be carried out in strict compliance with the requirements of the law and with additional safeguards, including anonymization, pseudonymization, cryptographic protection, and other modern methods."

9. In order to clarify and expand the terms of personal data processing, Article 18 of the Law "On Personal Data" shall be supplemented with **Part 4** in the following version:

"Personal information may be processed without their consent in cases where it is necessary to perform the functions and powers assigned to state bodies and organizations by law. Personal data may be processed without consent in cases where it is necessary to ensure the legal interests of the processing subject"

(operator) or third parties, except for cases where the basic rights and freedoms of the subject of personal data prevail."

10. **Article 30** of the Law "On Personal Information"

Clause 1 should be supplemented with the following **eighth paragraph**:

"The subject of personal data to request correction, completion, blocking and deletion of his data, as well as to be informed about the deletion or replacement of data has the right".

11. In order to ensure the protection of personal data in automated decision-making and profiling processes, to supplement Article 25 of the Law "On Personal Data" with the following **Part 5**:

"It is prohibited to make personal decisions based solely on automated processing, including the results of profiling. This rule does not apply to the following cases: if the decision is necessary for the execution of the contract concluded with the data subject, or if the data subject has given clear and explicit consent; if the decision is permitted by law and appropriate measures are provided to protect the rights and freedoms of the data subject".

12. The proposal of the following content, which served to strengthen the protection measures against the subject's special confidential information and provide it with additional guarantees, was used in the development of **the third part of Article 26** of the Law "On Personal Information":

"Biometric and genetic data used to determine the subject's identity shall be used only in the case of the subject's consent, with the exception of cases related to the implementation of international agreements of the Republic of Uzbekistan, the implementation of justice, and enforcement proceedings, as well as may be processed in other cases provided for by the law".

13. The proposal in the following content, which served as a basis for preventing arbitrary processing of personal data and ensuring reliable legal protection of personal data, "Personal data is correct" law was used in the development of **the sixth paragraph of the second part** of Article 31:

"The owner and (or) the operator must provide proof that the subject's consent to processing his personal data has been obtained in the cases provided for by the law".

14. Exclusion of the term "owner" from the Law "On Disclosure", the Law "On Personal Data" and the Law "On Principles and Guarantees of Freedom of Information" and its It is necessary to replace with the concept of "supervisor". It provides a unified approach to clarifying the legal status of Big Data elements and their protection. At the same time, these laws should define the concept of "data controller" and determine its legal status. For example, the following norm can be included: *"Data controller - a natural or legal person who determines the purposes and means of data processing, as well as is responsible for the legality, quality and security of data."*

In this case, the rights, obligations and responsibilities of the "supervisor" should be clearly defined.

15. 15. Proposals made by the researcher, approved by the decision of the Cabinet of Ministers of the Republic of Uzbekistan dated October 5, 2022 No. 570 "On the approval of certain legal documents in the field of personal data

processing" was taken into account in the development of the regulation on determining the level of data protection. In particular,

- in the development of the **tenth paragraph of Clause 5:**

"Publicly accessible information is information that can be freely used with the consent of the subject or that is not subject to confidentiality requirements." (This norm should also be included in the "Article 4. Basic Concepts" section of the Law "On Personal Data")

- in the development of **the first paragraph of clause 7:**

"Threats to the security of personal data - changing, filling, using, providing, distributing, transferring, misappropriating, destroying personal data as a result of unauthorized, including accidental access to the database, a set of conditions and factors that may lead to copying, as well as other illegal activities".

- in the development of **clause 14:**

"The following requirements must be met to ensure the 4th level of personal data protection when processing personal data in databases:

organization of the security regime of buildings where databases are located, prevention of uncontrolled entry or stay in these buildings of persons who do not have the right to enter these buildings;

ensuring the safety of material objects containing personal information; approval by the owner and (or) head of the operator of the document defining the list of persons required to access information about the person processed in the databases, to perform their service (labor) duties;

protection of personal data from existing threats, use of information security tools that have passed the procedure for assessing compliance with legal requirements in the field of information security, if necessary.

III. Practical suggestions and recommendations:

1. It is necessary to develop and implement long-term programs for the wide introduction of Big Data technologies in the activities of state bodies and economic entities. The results of the research show that the following aspects should be taken into account:

active use of Big Data technologies in various fields, improvement of data exchange and analysis;

establishing a training system for personnel working with Big Data, opening appropriate courses in higher education institutions;

setting high standards for data security and personal data protection and ensuring their implementation;

implementation of innovative ideas based on Big Data, stimulation of attracting venture investments;

increase the quality and reliability of data; introduce data anonymization and backup systems and other methods and tools.

2. Business entities should follow the principles of transparency, accountability, and responsibility when using Big Data technologies. Research shows that, in particular:

disclosure of purposes and conditions of data collection and use;

creation of mechanisms for ensuring the rights of data subjects and obtaining

their consent;

ensuring data security and confidentiality, preventing their illegal use;

it is necessary to establish internal and external control over activities related to data.

3. Institutions of civil society and mass media should actively participate in the introduction, use and control of Big Data technologies. The following aspects are important in this regard:

to increase the legal literacy of the population regarding Big Data, to raise awareness about its positive and negative aspects;

to expand public participation in the development and adoption of legislation in the field of information, to establish dialogue between experts and interested parties;

implementation of non-state control over information-based decisions and activities, ensuring transparency.

4. The development of international cooperation and the study of best practices are one of the important factors in the development of the field of Big Data. According to the results of the research, for this purpose:

establishing close relations with organizations operating in the field of information;

implementation of international standards on data security and quality into national legislation;

it is necessary to establish an exchange of information between countries and companies, to support international scientific and innovative projects.

5. It is necessary to study socio-economic and ethical problems that may arise in the process of using Big Data technologies, to develop measures to mitigate their consequences. Some problems identified during the research, in particular, issues such as culture and religious values, social justice, prevention of discrimination should not be ignored. For this, it is necessary to take measures such as conducting social expertise of Big Data projects, monitoring their social consequences, and forming ethics committees.

In addition, according to the research conclusions, in order to strengthen the institutional foundations of the Big Data field, it is necessary to improve the system of competent bodies responsible for the implementation of state policy in this regard, to develop mechanisms for coordinating and controlling their activities, as well as state bodies, business entities, it is necessary to establish effective cooperation between scientific institutions and institutions of civil society.

The above proposals and recommendations serve to fully cover and effectively regulate the legislation of the Republic of Uzbekistan on new legal relations related to the phenomenon of Big Data. Their adoption will help to protect the intellectual property rights of Big Data participants, ensure the balance of interests between them and the protection of personal data, stimulate scientific and technical progress and innovation, and create an environment of fair competition in the field.

**НАУЧНЫЙ СОВЕТ DSc.07/30.12. 2019.Yu.22.01 ПО ПРИСУЖДЕНИЮ
УЧЕНЫХ СТЕПЕНЕЙ ПРИ ТАШКЕНТСКОМ ГОСУДАРСТВЕННОМ
ЮРИДИЧЕСКОМ УНИВЕРСИТЕТЕ**

**ТАШКЕНТСКИЙ ГОСУДАРСТВЕННЫЙ ЮРИДИЧЕСКИЙ
УНИВЕРСИТЕТ**

МАМАНАЗАРОВ САРДОР ШУХРАТОВИЧ

ГРАЖДАНСКО-ПРАВОВОЙ РЕЖИМ BIG DATA

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АВТОРЕФЕРАТ
диссертации доктора философии по юридическим наукам (PhD)

Ташкент – 2024

Тема диссертации доктора философии (Doctor of Philosophy) в Высшей аттестационной комиссии при Министерстве высшего образования, науки и инноваций Республики Узбекистан за № В2024.3.PhD/Yu684.

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Научный руководитель:

Рашидов Камилъ Каюмович
доктор юридических наук, профессор

Официальные оппоненты:

Гулямов Саид Саидахарович
доктор юридических наук, профессор

Сафоева Садокат Мусоевна
кандидат юридических наук

Ведущая организация:

Институт парламентских исследований при Законодательной палате Олий Мажлиса Республики Узбекистан

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С диссертацией можно ознакомиться в Информационно-ресурсном центре Ташкентского государственного юридического университета (зарегистрировано за №1287). (Адрес: 100047, г. Ташкент, ул. Амира Темура, 13. Тел.: (99871) 233-66-36).

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И.Р. Рустамбеков

Председатель Научного совета по присуждению ученых степеней, доктор юридических наук, профессор

Д.Ю. Хабибуллаев

Научный секретарь Научного совета по присуждению ученых степеней, доктор юридических наук, профессор

Б.К.Ходжаев

Председатель Научного семинара при Научном совете по присуждению ученых степеней, доктор юридических наук, профессор

ВВЕДЕНИЕ (аннотация диссертации доктора философии (PhD))

Цель исследования – определение гражданско-правовой природы правоотношений в сфере Big Data и разработка научной концепции их правового регулирования, подготовка соответствующих предложений и рекомендаций по правовому обеспечению защиты и конфиденциальности персональных данных субъектов.

Объектом исследования является система гражданско-правовых отношений на основе технологий Big Data, включающая отношения, связанные с процессами обработки и защиты информации.

Научная новизна исследования определяется следующими научными результатами:

обосновано, то биометрические и генетические данные, используемые для идентификации субъекта, должны быть получены только на условии согласия данного субъекта;

обоснована необходимость предоставления владельцем и (или) оператором доказательств получения согласия субъекта на обработку его персональных данных в случаях, предусмотренных законодательством;

обоснованы категория и понятие информации, доступной для всех, которая может быть свободно доступна с согласия субъекта или к которой не применяются требования о соблюдении конфиденциальности;

обоснованы предложения об отражении в законодательстве правового определения понятий угроз безопасности персональных данных;

разработаны и обоснованы требования к защите персональных данных в базах данных при их обработке.

Внедрение результатов исследований. На основе результатов исследования:

предложение о том, что биометрические и генетические данные, используемые для установления личности субъекта, могут быть обработаны только при наличии согласия данного субъекта, за исключением случаев, связанных с реализацией международных договоров Республики Узбекистан, осуществлением правосудия, исполнительным производством, а также в иных случаях, предусмотренных законодательством, использовано при разработке части третьей статьи 26 Закона Республики Узбекистан «О персональных данных» (акт Законодательной палаты Олий Мажлиса Республики Узбекистан от 18 апреля 2024 года). Внедрение этого предложения усилило защитные меры в отношении специальной конфиденциальной информации субъекта и послужило предоставлению ему дополнительных гарантий;

предложение о требовании предоставления владельцем и (или) оператором в предусмотренных законодательством случаях доказательств получения согласия субъекта на обработку его персональных данных было учтено при разработке абзаца шестого части второй статьи 31 Закона Республики Узбекистан «О персональных данных» (акт Законодательной палаты Олий Мажлиса Республики Узбекистан от 18 апреля 2024 года).

Внедрение данного предложения послужило основой для обеспечения недопущения несанкционированного доступа оператора (собственника) к персональным данным, произвольной обработки персональных данных, а также обеспечения надёжной правовой защиты персональных данных;

предложение, касающееся понятия общедоступной информации, то есть информации, которая может быть свободно доступна с согласия субъекта или на которую не распространяются требования о соблюдении конфиденциальности, учтено при разработке абзаца десятого пункта 5 Положения об определении уровня защиты персональных данных при их обработке, утверждённого постановлением Кабинета Министров Республики Узбекистан «Об утверждении некоторых нормативно-правовых актов в области обработки персональных данных» от 5 октября 2022 года № 570 (справка Кабинета Министров Республики Узбекистан от 27 июня 2024 года). Внедрение этого предложения послужило обеспечению единого подхода к информации, доступной каждому;

предложение о том, что под угрозами безопасности персональных данных подразумевается совокупность условий и факторов, которые могут привести к изменению, дополнению, использованию, предоставлению, распространению, передаче, присвоению, уничтожению, копированию персональных данных в результате несанкционированного, в том числе случайного доступа к базе данных, а также к другим незаконным действиям, учтено при разработке абзаца первого пункта 7 Положения об определении уровня защиты персональных данных при их обработке, утверждённого постановлением Кабинета Министров Республики Узбекистан «Об утверждении некоторых нормативно-правовых актов в области обработки персональных данных» от 5 октября 2022 года № 570 (справка Кабинета Министров Республики Узбекистан от 27 июня 2024 года). Внедрение этого предложения внесло ясность в понятие угроз безопасности персональных данных, какие виды поведения считаются угрозами безопасности данных;

предложение о том, что при обработке персональных данных в базах данных для обеспечения 4-го уровня их защиты должны быть выполнены следующие требования: организация режима безопасности помещений, в которых размещаются базы данных, предотвращение бесконтрольного доступа или пребывания в этих помещениях лиц, не имеющих доступа к этим помещениям; обеспечение безопасности материальных объектов, содержащих персональные данные; утверждение владельцем и (или) руководителем оператора документа, определяющего перечень лиц, имеющих доступ к информации о обрабатываемом лице в базах данных, необходимых для выполнения им служебных (трудовых) обязанностей; при необходимости защита персональной информации от существующих угроз с использованием средств информационной безопасности, прошедших процедуру оценки соответствия требованиям законодательства в области информационной безопасности, – учтено при разработке пункта 14 Положения об определении уровня защиты персональных данных при их обработке, утверждённого постановлением Кабинета Министров Республики

Узбекистан «Об утверждении некоторых нормативно-правовых актов в области обработки персональных данных» от 5 октября 2022 года № 570 (справка Кабинета Министров Республики Узбекистан от 27 июня 2024 года). Внедрение данного предложения послужило введению требований, обеспечивающих защиту персональных данных.

Объём и структура диссертации. Диссертация структурно состоит из введения, трёх глав, заключения, списка использованной литературы и приложений. Общий объём диссертации составляет 156 страниц.

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

I bo'lim (I part; I часть)

1. Mamanazarov S.SH. BIG DATA tushunchasi va huquqiy tabiati // Yuridik fanlar axborotnomasi.– T.: TDYU, 2023. -B. 49-56 (12.00.00; №20).
2. Mamanazarov S.SH. Data ownership rights: legal and technical solutions // Tsul Legal Report. Volume 4, ISSUE 4 (2023). -B. 20-29.
3. Mamanazarov S.SH. Big Data sohasida sun'iy intellektning huquq va majburiyatlari: muammolar va yechimlar // Yurisprudensiya. 2024. -B. 56-66 (12.00.00; №15).
4. Mamanazarov S.SH. Data ownership rights: legal and technical solutions // Tsul Legal Report. Volume 5, ISSUE 1, 2024. -B. 25-37.
5. Mamanazarov S.SH. Intellectual Property Theories as Applied to Big Data // International Journal of Law and Policy, 1(7), 39–42. <https://doi.org/10.59022/ijlp.164> Vol. 1 No. 7, 2023. - P. 1-13.
6. Mamanazarov S.SH. Insuring Data Risks: Problems and Solutions // International Journal of Law and Policy, 1(7), 39–42. <https://doi.org/10.59022/ijlp.164> Vol. 2 No. 4 (2024). – P. 1-18.

II bo'lim (II part; II часть)

7. Mamanazarov S.SH. Property Rights over Data (Big Data): Issues and Solutions // Legal Tech, Education and Digital Transformation of Law mavzusidagi xalqaro ilmiy-amaliy konferensiya materiallari. – T.: TDYU, 2023. - B. 125-127.
8. Mamanazarov S.SH. Informed consent in Big Data: ensuring participants' rights // “Development tendencies of state and law in the conditions of digitilization” mavzusidagi xalqaro ilmiy-amaliy konferensiya materiallari. – T.: TDYU, March 28, 2024. -B. 112-117.
9. Mamanazarov S.SH. The concept of data as an object of property rights // Yuridik fan va huquqni qo'llash amaliyotining dolzarb masalalari” mavzusidagi respublika ilmiy-amaliy konfrensiya materiallari to'plami // Mas'ul muharrirlar yu.f.d., prof. M.M.Mamasiddiqov, yu.f.f.d., dos. Sh.I.Shayzakov - Toshkent. 2024. – 223-234 b.
10. Mamanazarov S.SH. Advancing cyber insurance: enhancing legal and risk management frameworks // Сборник материалов международной научно-практической конференции на тему: «Проблемы правового регулирования интеллектуальной собственности». - T.: ТГЮУ, 2024. –С.34-39.
11. Mamanazarov S.SH. Ensuring personal data confidentiality: problems and solutions// “Fuqarolik huquqi rivojlanishining zamonaviy tendensiyalari” xalqaro ilmiy-amaliy konferensiya materiallari to'plami / Mas'ul muharrir y.f.n., prof. J.Yuldashev,–T.: TDYU. 2024. –B. 147-159.

Avtoreferat TDYU “Yuridik fanlar axborotnomasi – Вестник юридических наук – Review of Law Sciences” jurnali tahririyatida tahrirdan o‘tkazilib, o‘zbek, rus va ingliz tillaridagi matnlar o‘zaro muvofiqlashtirildi.

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