

**INSON HUQUQLARI BO‘YICHA O‘ZBEKISTON RESPUBLIKASI  
MILLIY MARKAZI HUZURIDAGI ILMiy DARAJALAR BERUVCHI  
DSc. 39/30.11.2020. Yu/S. 128.01 RAQAMLI ILMiy KENGASH**

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

**ALIMOV G‘AYBULLA ALIMOVICH**

**FAVQULODDA HOLATLARDAGI INSON HUQUQLARINI  
TA‘MINLASHNING HUQUQIY ASOSLARI:  
XALQARO VA MILLIY TAJRIBA**

12.00.13. – Inson huquqlari

**Yuridik fanlar doktori (DSc) dissertatsiyasi  
AVTOREFERATI**

**Toshkent – 2025**

**Fan doktori (DSc) dissertatsiyasi avtoreferati mundarijasi**  
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**Yuridik fanlar doktori (DSc) dissertatsiyasi  
AVTOREFERATI**

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**Fan doktori (DSc) dissertatsiyasi mavzusi O‘zbekiston Respublikasi Oliy ta’lim, fan va innovatsiyalar vazirligi huzuridagi Oliy attestatsiya komissiyasida B2023.3.DSc/Yu262 - raqam bilan ro‘yxatga olingan.**

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Dissertatsiya himoyasi Inson huquqlari bo‘yicha O‘zbekiston Respublikasi Milliy markazi huzuridagi ilmiy darajalar beruvchi DSc. 39/30.11.2020. Yu/S. 128.01 raqamli Ilmiy kengashning 2025-yil 13-iyun kuni soat 15.00 dagi majlisida bo‘lib o‘tadi (Manzil: 100029, Toshkent sh., Islom Karimov ko‘chasi, 15-uy, tel. +998 71 239 40 23, e-mail: [info@nhrc.uz](mailto:info@nhrc.uz)).

Dissertatsiya bilan Inson huquqlari bo‘yicha O‘zbekiston Respublikasi Milliy markazining Axborot-resurs markazida tanishish mumkin (8-raqami bilan ro‘yxatga olingan). (Manzil: 100029, Toshkent shahri, Islom Karimov ko‘chasi, 15-uy, tel. +998 71 239 40 23).

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## KIRISH (Doktorlik dissertatsiyasi (DSc) annotatsiyasi)

**Dissertatsiya mavzusining dolzarbligi va zarurati.** Jahonda hozirgi davrda inson huquqlari va erkinliklarini ta'minlash hamda ularni amalga oshirish davrimizning eng dolzarb va murakkab muammolaridan biri hisoblanadi. Globallashuv jarayonlari nafaqat asosiy huquq va erkinliklarning qadr-qimmati va daxlsizligini anglashga olib keldi, balki ularni turli xil noqonuniy tajovuzlar, xavflar, tabiiy ofatlardan himoya qilishning o'ta dolzarb masalasini ham kun tartibiga qo'yimoqda. Jahon meteorologiya tashkiloti ma'lumotlariga ko'ra tabiiy ofatlar soni 5 yil davomida 50 barobar oshgan. Xususan, 1970-yildan hozirgacha bo'lgan davrda 11 mingdan ziyod turli ofatlar yuz berishi natijasida 2 milliarddan ortiq o'lim holatlari kuzatilgan va 3,64 trillion AQSh dollari miqdorida iqtisodiy zarar yetkazilgan. Ayni paytda favqulodda holatlarning oldini olish va uning oqibatlarini yumshatish tizimi takomillashtirilishi natijasida o'lim sonini deyarli 3 baravar kamaytirishga erishildi<sup>1</sup>. Shu bilan birga, ko'plab davlatlarning rivojlanish tajribasi shuni ko'rsatmoqdaki, inson huquqlari va erkinliklarini so'zsiz mutloqlashtirish ba'zan tabiiy holatga va davlat rivojlanishining qonuniy manfaatlari talablariga javob bermaydi, shaxsning erkinligini ma'lum chegaralar ichida amalga oshirishni va boshqa shaxslarga o'z huquqlaridan foydalanish imkoniyatini beradi.

Bugungi notinch, xavf-xatarli dunyoda inson huquqlari konsepsiyasini tadqiqot qilish, uning turli vaziyatlarda (favqulodda yoki urush holatlarida) ta'minlash, ayrim toifadagi huquq va erkinliklarni cheklash masalalarini o'rganish dolzarb masalalardan biri hisoblanadi. Inson huquqlari bo'yicha ayrim cheklovlarni qo'llash Inson huquqlari umumjahon deklaratsiyasi, Fuqaroviy va siyosiy huquqlar hamda Iqtisodiy, ijtimoiy va madaniy huquqlar to'g'risidagi xalqaro paktlar kabi bir qator muhim xalqaro huquqiy hujjatlarda o'z ifodasini topgan. Xalqaro hamjamiyat nafaqat ma'lum huquqlar majmuiga, balki davlat hokimiyati organlari tomonidan ko'rilgan favqulodda choralarni nazorat qilish huquqiga ham ega. Bu inson huquqlari bo'yicha xalqaro kafolatlarning samarali ishlashi va ularning himoyasini ta'minlash zarurati bilan bog'liq.

“O‘zbekiston – 2030” strategiyasining 87-maqsadi “Huquqni muhofaza qiluvchi organlarning faoliyatini inson manfaatlari, qadr-qimmati va huquqlarini himoya qilishga yo‘naltirish” deya nomlanib, ushbu maqsaddan kelib chiqadigan inson huquq va erkinliklarini cheklashda suiiste'mol qilish holatlariga yo'l qo'ymaslik tamoyili muhim ilmiy-nazariy omil sifatida alohida dolzarblik kasb etadi. Davlatimiz rahbari ta'kidlaganlaridek, “So‘nggi yillarda dunyoning turli mintaqalarida qurolli to‘qnashuvlar, ekologik va texnogen fojialar, iqtisodiy inqirozlar, “savdo urushlari”, terrorizm va ekstremizm tahdidlari tobora kuchayib bormoqda. Bunday o‘ta murakkab sharoitda jahonda tinchlikni saqlash, ijtimoiy taraqqiyot va adolatni ta'minlashda parlamentlar ishtiroki va ta'sirini oshirishni zamonning o'zi talab etmoqda”<sup>2</sup>.

<sup>1</sup> <https://wmo.int/ru/media/news/za-poslednie-50-letuvelichilos-chislo-svyazannykh-s-pogodoy-bedstviy-oni-prichinyayut-bolshe>.

<sup>2</sup> O‘zbekiston Respublikasi Prezidenti Shavkat Mirziyoyevning Parlamentlararo Ittifoqning 150-Assambleyasidagi nutqi // <https://president.uz/oz/lists/view/8034>.

Mazkur tadqiqot ishi O‘zbekiston Respublikasi Konstitutsiyasi (2023), “Favqulodda holat to‘g‘risida”gi Konstitutsiyaviy qonun (2021), “Aholini va hududlarni tabiiy hamda texnogen xususiyatli favqulodda vaziyatlardan muhofaza qilish to‘g‘risida”gi qonun (2022), O‘zbekiston Respublikasi Prezidentining 2023-yil 11-sentabrdagi “O‘zbekiston – 2030” strategiyasi to‘g‘risida”gi Farmoni, Inson huquqlari bo‘yicha O‘zbekiston Respublikasi Milliy strategiyasi<sup>1</sup> va boshqa qonun hujjatlarida aks ettirilgan inson huquqlarini favqulodda holatlarda ta‘minlash masalalarini muayyan darajada amalga oshirishga xizmat qiladi.

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

**Dissertatsiya mavzusi bo‘yicha xorijiy ilmiy tadqiqotlar sharhi<sup>2</sup>.** Favqulodda holatlarda inson huquqlarini ta‘minlashning muhim masalalari, uni rivojlantirish va shakllantirish bo‘yicha ilmiy tadqiqotlar jahon davlatlaridagi nufuzli ilmiy muassasalar va jamoatchilik tashkilotlari, jumladan, AQShning Jorjtaun universiteti (Georgetown University), Merilend universiteti (University Maryland), Florida texnologiya instituti (Florida Institute of Technology), Favqulodda vaziyatlarni boshqarish instituti (Emergency Management institute), Stenford universitetining Xalqaro xavfsizlik va hamkorlik markazi (Stanford University – Center for International Security and Cooperation), Garvard universitetining Belfer fan va xalqaro aloqalar markazi (Harvard University – Belfer Center for Science and International Affairs) kabi oliy ta‘lim muassasalari, Kanadaning Britaniya Kolumbiyasi universiteti (University of British Columbia), Germaniyaning Bavariya yong‘in boshqarmasi (Bayerische Feuerwehrschiue (BFS)) universiteti, Daniyaning Inson huquqlari bo‘yicha instituti, Xitoyning yetakchi oliy ta‘lim muassasalari konsorsiumi – Xitoy kampus tarmog‘i (China Campus Network) va boshqa muassasalar tomonidan amalga oshirilgan.

Masalan, AQShning Jorjtaun universitetida favqulodda holatlarda terrorizmga qarshi kurash, milliy xavfsizlik sharoitida inson huquqlarini himoya qilish masalalari tadqiq etilgan bo‘lsa, Garvard universitetining Belfer fan va xalqaro aloqalar markazida xalqaro munosabatlar, urush va tinchlik sharoitida inson huquqlarini himoya qilish masalalari yuzasidan strategik ilmiy tahlillar olib borilgan. AQShning Kolorado universiteti Boulder tabiiy xavflar markazida (Universty of Colorado Boulder-Natural Hazards Center) favqulodda vaziyatlarda, jumladan, zilzila, toshqin, dovul kabi tabiiy ofatlar sharoitida inson huquqlarini himoya qilish bo‘yicha ilmiy-tadqiqotlar olib borilgan.

MDH mamlakatlaridan Rossiyaning Fuqarolik mudofaasi akademiyasi, Sankt-Peterburg davlat yong‘in xavfsizligi universiteti, Qozog‘istonning Fuqarolik

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<sup>1</sup> O‘zbekiston Respublikasi Prezidentining 2020-yil 22-iyundagi “Inson huquqlari bo‘yicha O‘zbekiston Respublikasining Milliy strategiyasini tasdiqlash to‘g‘risida”gi PF-6012-son Farmoni // <https://lex.uz/ru/docs/-4872355>

<sup>2</sup> Dissertatsiya mavzusi bo‘yicha xalqaro ilmiy tadqiqotlar sharhi foydalanilgan adabiyotlar ro‘yxatida berilgan.

mudofaasi akademiyasi, O‘zbekiston Respublikasining Favqulodda vaziyatlar vazirligi akademiyasi kabi yetakchi ilmiy markazlar hamda oliy ta’lim muassasalarida favqulodda holatlarda inson huquq va erkinliklarining kafolatlanishi, ayrim huquq va erkinliklarni cheklashning xususiyatlari va mezonlari bo‘yicha tadqiqotlar olib borilmoqda.

Shuningdek, favqulodda holatlarda inson huquqlarini ta’minlash jarayonida, cheklov qo‘llovchi davlat organlari o‘z vakolatlarini suiiste’mol qilishlarining oldini olish, har qanday vaziyatda ham cheklanishi mumkin bo‘lmagan huquq va erkinliklar ro‘yxatini kengaytirish bo‘yicha nufuzli xalqaro tashkilotlar, jumladan, BMTning Inson huquqlari bo‘yicha kengashi, BMTning Bola huquqlari bo‘yicha qo‘mitasi, Irtiqy kamsitishlarga barham berish qo‘mitasi, Inson huquqlari qo‘mitasi, Yevropa Kengashi, Yevropa Ittifoqi, YXHT kabi xalqaro tashkilotlar faoliyatini keltirib o‘tish mumkin. Inson huquqlari bo‘yicha Amerika va Yevropa sudlari tomonidan favqulodda holatlar sharoitida inson huquq va erkinliklarini suiiste’mol qilish holatlari bo‘yicha kelib tushgan shikoyatlarni ko‘rib chiqishga oid sud amaliyoti tahlil qilinib, ular yuzasidan tegishli qarorlar qabul qilingan.

Yuqorida keltirib o‘tilgan xorijiy ta’lim muassasalari va xalqaro tashkilotlarning hisobotlarida, ma’ruzalarida va tadqiqot ishlarida favqulodda holatlarda inson huquq va erkinliklarini ta’minlash jarayonida ayrim huquqlarni cheklashning nazariy va amaliy muammolari tahlil qilingan va tegishli tavsiyalar ishlab chiqilgan.

**Muammoning o‘rganilganlik darajasi.** Mamlakatimizda favqulodda holatlarda inson huquq va erkinliklarini cheklash masalasi bo‘yicha alohida tadqiqotlar olib borilmagan bo‘lsa-da, inson huquqlarini cheklashning u yoki bu jihatlari akademik A.X. Saidov, olimlar G‘.A. Abdumajidov, M.X. Rustambayev, A.B. G‘afurov, M.A. Tillabaev, A.A. To‘laganov, I.T. Turg‘unov, M.T. Turg‘unov, B.N. Toshev, G.Y. Yuldasheva, A.R. Muminov, A.A. Matchonov va boshqa olimlarning ilmiy ishlarida ko‘rsatib o‘tilgan<sup>1</sup>.

O‘zbekistonda favqulodda holatlar davrida fuqaro muhofazasining huquqiy va tashkiliy masalalarini olimlar – S. Xusanova, N. Nazarova hamda A. Tursunovlar milliy darajada tadqiq etishgan.

Mustaqil Davlatlar Hamdo‘stligi davlatlarida inson huquq va erkinliklarini cheklashning konstitutsiyaviy va huquqiy asoslari bo‘yicha tadqiqotlar olib borgan tadqiqotchi olimlar T. Xabriyeva, A. Abashidze, A. Kovler, B. Tuzmuhamedov, Y. Shelegov, A. Yusufov, M. Txarkaxo, O. Vinogradov, A. Kropacheva, O. Omarov, D. Ikramov, Y. Kazimirskaya va boshqa olimlar ilmiy izlanishlar olib borishgan.

Favqulodda holatlarda inson huquq va erkinliklarini ta’minlashning xalqaro huquqiy jihatlari bir qator xorijiy tadqiqotchilarning ishlarida, xususan, R. Bernhardt, B. Vizer, F. Iakobutsi, A. Kariola, A. Shayo, K. Ekshtayn, A. Lopes-Pina, R. Arnold, A. fon Arnold, K. Mayner-Brokman, T. Mouns, P. Lerne, G. Ress, M. Saks, K. Xesse, V. Xofling, B. Shlink, F.E. Shnapp, X. Shtark, K. Shtern, M.X. Yakobe va boshqalarning ilmiy asarlarida yoritilgan bo‘lib, ularda inson

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<sup>1</sup> Mazkur va boshqa olimlarning ilmiy ishlari dissertatsiya ishining foydalanilgan adabiyotlar ro‘yxatida berilgan.

huquqlarini cheklash muammosi va ularni qabul qilish mezonlari batafsil tahlil qilinadi.

Shu bilan birga, tanlangan mavzu bo'yicha nazariy-huquqiy muammolar favqulodda holatlarda davlat boshqaruvi tizimidagi islohotlar, milliy qonunchilik va huquqni qo'llash amaliyoti, xalqaro huquq me'yorlari hamda xorijiy davlatlarning ilg'or tajribalarini inobatga olgan holda inson huquqlarini cheklash nuqtayi nazardan alohida monografik tadqiq etilmagan.

**Dissertatsiya mavzusining dissertatsiya bajarilgan oliy ta'lim yoki ilmiy tadqiqot muassasasining ilmiy-tadqiqot ishlari rejaları bilan bog'liqligi.** Dissertatsiya mavzusi O'zbekiston Respublikasi Huquqni muhofaza qilish akademiyasining ilmiy tadqiqotlarning ustuvor yo'nalishlari doirasida amalga oshirilgan.

**Tadqiqotning maqsadi** – O'zbekiston Respublikasi va xorijiy mamlakatlar qonunchiligiga asosan favqulodda holatlarda inson huquq va erkinliklarini ta'minlash masalalarini tahlil qilish, shuningdek, rivojlangan mamlakatlar tajribasini hisobga olgan holda O'zbekiston Respublikasining bu yo'nalishdagi qonunchiligini takomillashtirish bo'yicha takliflarni ishlab chiqishdan iborat.

**Tadqiqotning vazifalari:**

O'zbekiston Respublikasi, xalqaro-huquqiy hujjatlar va xorijiy davlatlar qonunchiligiga muvofiq inson huquq va erkinliklarini favqulodda holatlar sharoitida cheklashning maqsadlari va asoslarini tashkil etuvchi konseptual tushunchaning mazmunini ochib berish;

O'zbekiston va xorijiy mamlakatlarda inson huquq va erkinliklarini ta'minlashda qonuniy cheklashning konstitutsiyaviy-huquqiy asoslarini tahlil qilish;

maxsus huquqiy maqomga ega bo'lgan shaxslar, xususan, ichki ishlar, milliy gvardiya, prokuratura va sud organlari tomonidan alohida huquqiy rejim sharoitida inson huquq va erkinliklariga cheklovlar qo'llashning huquqiy asoslarini takomillashtirish;

inson huquqlari bo'yicha xalqaro shartnomalar talablari asosida favqulodda holatlar sharoitida inson huquqlarini ta'minlash institutining tushunchasi, mexanizmi va xususiyatlarini chuqur tahlil qilish;

terrorizm va ekstremizm xavfi mavjud bo'lgan real vaziyatlarda joriy etilgan alohida huquqiy rejim sharoitida inson huquq va erkinliklarini cheklashning xususiyatlarini tahlil qilish va bu boradagi xorij tajribasini o'rganish;

inson huquqlari bo'yicha xalqaro shartnomalar va xorijiy mamlakatlar tajribasida favqulodda holat joriy etish tartibi, turlari va qo'llash asoslarini tahlil qilish orqali "maxsus huquqiy rejim", "tan omaslik", "toraytirish", "to'xtatib turish", "cheklash", "urush holati yoki qurolli to'qnashuv", "favqulodda holat", "favqulodda holatlarda jamoat tartibini saqlash", "huquqdan mahrum qilish", "qamal holati" huquqiy tushunchalariga ta'rif berish;

har qanday sharoitda chekinishga yo'l qo'yilmaydigan inson huquq va erkinliklariga tegishli BMT shartnomalari va mintaqaviy (Amerika, Yevropa, Afrika) shartnomalar qoidalarini tahlil qilish orqali O'zbekiston Respublikasi Konstitutsiyasida insonning huquq va majburiyatlari kafolatlarini hamda o'ziga xos jihatlari o'rganish;

favqulodda holat huquqiy rejimini joriy qilish bo'yicha O'zbekiston amaliyotini tahlil qilish orqali, mamlakatimiz hududida favqulodda va harbiy holatni joriy etishning huquqiy asoslarini takomillashtirish yuzasidan takliflar ishlab chiqish;

Koronavirus (COVID-19) pandemiyasi sharoitida inson huquqlarini cheklashning ayrim xususiyatlarini o'rganish;

xalqaro-huquqiy shartnomalar, milliy va xorijiy normativ hujjatlariga muvofiq maxsus huquqiy rejimning elementi sifatida inson huquq va erkinliklariga oid qonuniy cheklovlarning ijtimoiy va huquqiy mohiyatini ochib berish;

O'zbekiston Respublikasida favqulodda holatlar sharoitida inson huquq va erkinliklarini cheklash sohasidagi qonun ijodkorligi faoliyatini takomillashtirish bo'yicha tavsiyalar ishlab chiqish.

**Tadqiqot obyekti** – O'zbekiston Respublikasi va xorijiy mamlakatlarning huquqiy tizimlarida favqulodda holat sharoitida inson huquq va erkinliklarni ta'minlash, shuningdek, huquqiy cheklovlarni qo'llash va joriy etish jarayonida yuzaga keladigan ijtimoiy munosabatlar tizimi.

**Tadqiqot predmeti** – favqulodda holatlar davrida inson huquqlarini ta'minlash bilan bog'liq masalalarni tartibga soluvchi xalqaro shartnomalar, bunday sharoitda xalqaro tashkilotlarning faoliyati, shuningdek, O'zbekiston Respublikasi va xorijiy mamlakatlar qoninchiligida inson huquq va erkinliklarini cheklashning huquqiy asoslarini amalga oshirishning o'ziga xos xususiyatlari.

**Tadqiqot usullari.** Favqulodda vaziyatda inson huquqlarini ta'minlashning xalqaro-huquqiy mexanizmini tahlil qilish nuqtayi nazaridan tizimli, tarixiy-qiyosiy, qiyosiy-huquqiy, ijtimoiy so'rov, empirik material va statistik ma'lumotlar tahlili usullaridan foydalanilgan.

**Tadqiqotning ilmiy yangiligi** quyidagilardan iborat:

xorijiy va milliy qonunchilik, ilmiy doktrina tahlili asosida “maxsus huquqiy rejim”, “tan omaslik”, “toraytirish”, “to'xtatib turish”, “cheklash”, “urush holati yoki qurolli to'qnashuv”, “favqulodda holat”, “favqulodda holatlarda jamoat tartibini saqlash”, “huquqdan mahrum qilish”, “qamal holati” tushunchalariga nisbatan zamonaviy yondashuvdagi mualliflik ta'rifi ishlab chiqilgan;

O'zbekiston Respublikasining “Favqulodda holat to'g'risida”gi Konstitutsiyaviy qonunida berilgan “favqulodda holat” tushunchasining takomillashtirilgan tahlili taklif etilgan;

insonning huquqlari konstitutsiyaviy tuzum, aholining sog'lig'i, ijtimoiy axloq, boshqa shaxslarning huquq va erkinliklarini himoya qilish, jamoat xavfsizligini hamda jamoat tartibini ta'minlash maqsadida zarur bo'lgan doirada cheklanishi mumkinligi xalqaro-huquqiy jihatdan asoslantirilgan;

O'zbekiston Respublikasining “Favqulodda holat to'g'risida”gi Konstitutsiyaviy qonunining 12-moddasi 4 va 7-qismlariga favqulodda holatlarda yig'ilishlar, mitinglar, ko'cha yurishlari, namoyishlar o'tkazilishini taqiqlash yoki cheklash hamda o'ta muhim va toifalangan obyektlarning qo'riqlanishini kuchaytirishga oid takliflar asoslantirilgan;

Vazirlar Mahkamasining favqulodda vaziyatlar yuz bergan hududlarga odamlarni va transport vositalarining kirib-chiqishini vaqtincha cheklash bilan bog‘liq vakolatlari asoslantirilgan;

favqulodda holat joriy etilgan davrda O‘zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasi va Senatining tarqatib yuborilishini taqiqlovchi qoidalari bilan qonunchilikni to‘ldirish taklif etilgan;

O‘zbekiston Respublikasining ayrim qonun hujjatlarini Jahon savdo tashkiloti bitimlariga muvofiqlashtirishni nazarda tutuvchi favqulodda vaziyatlarda patentlar bilan muhofaza qilinadigan sanoat mulki obyektlaridan tarkib topgan vositalarni tabiiy ofatlar, halokatlar, epidemiyalar va boshqa favqulodda holatlarda patent natijalaridan foydalangach, muallifini qisqa muddatda xabardor qilib, mutanosib miqdorda unga tovon to‘lash masalasi asoslantirildi;

O‘zbekiston Respublikasi Vazirlar Mahkamasi davlat mudofaasi va xavfsizligini ta‘minlash, tabiiy va texnogen xususiyatli favqulodda vaziyatlarni bartaraf etish, fuqarolarning hayoti va sog‘ligini muhofaza qilish bilan bog‘liq oxirgi zaruriyat yuzaga kelgan vaziyatlarda, patent egasining mulkidan uning roziligisiz foydalanib, bu haqda uni xabardor qilib, mutanosib miqdorda unga tovon to‘lash shartlari asoslantirilgan.

#### **Tadqiqotning amaliy natijalari** quyidagilardan iborat:

inson huquq va erkinliklarini ta‘minlash jarayonida ayrim huquqlarni cheklash bilan bog‘liq favqulodda holat huquqiy mexanizmlarini takomillashtirish yuzasidan amaliy takliflar asoslantirilgan;

O‘zbekiston Respublikasi Konstitutsiyasidagi favqulodda holatlarda inson huquq va erkinliklarini ta‘minlash maqsadida ayrim huquq va erkinliklarni cheklash bilan bog‘liq normalar xalqaro-huquqiy hujjatlarda ko‘rsatilgan standartlarga moslashtirilishi amaliy zarurat ekanligi asoslantirilgan;

O‘zbekiston Respublikasining favqulodda holatlar bilan bog‘liq mavjud qonun hujjatlariga tegishli o‘zgartish va qo‘shimchalar kiritish bo‘yicha takliflar ilgari surilgan;

favqulodda holatlarda inson huquq va erkinliklarini cheklash bilan bog‘liq milliy va xorijiy tajribaning tahlili, qonun hujjatlardagi tushunchalarning aniq va ilmiy ta‘riflanishi hamda Konstitutsiyaviy va qonuniy mexanizmlarni takomillashtirish bo‘yicha berilgan takliflar asoslab berilgan;

ilmiy tahlil natijasida ishlab chiqilgan favqulodda holatlarga oid mualliflik ta‘riflari va asosiy tushunchalarni milliy qonunchilikka tatbiq etishning aniq mezonlari taklif etilgan;

O‘zbekiston Respublikasining yangi tahrirdagi Konstitutsiyasi va sohaga oid qonunlarga kiritilishi taklif etilgan o‘zgartish va qo‘shimchalar favqulodda holatda inson huquq va erkinliklarini samarali va qonuniy himoya qilishi asoslantirilgan;

xorijiy mamlakatlar tajribasi asosida berilgan takliflar O‘zbekiston Respublikasining milliy huquqiy tizimi xalqaro standartlar talablariga moslashuvini ta‘minlanishi asoslab berilgan;

favqulodda holatlarda huquqni qo‘llash amaliyotida yuzaga keladigan huquqiy bo‘shliqlar va muammolarni bartaraf etishga xizmat qiladigan aniq takliflar ishlab chiqilgan;

favqulodda holatlarda inson huquq va erkinliklarini ta'minlashga oid qonunchilikni takomillashtirish va inson huquqlarini himoya qilish sohalaridagi yangi yechim va mexanizmlarni joriy etish imkonini berishi asoslantirilgan.

**Tadqiqot natijalarining ishonchligi.** Favqulodda holatga oid tadqiqot natijalari xalqaro huquq va milliy qonunchilik normalari, ilg'or xorijiy tajribalar, huquqni qo'llash amaliyoti, rasmiy manbalardan olingan ilmiy-nazariy qarashlar va metodologik yondashuvlar, harbiy va huquqni muhofaza qiluvchi organlar xodimlari orasida o'tkazilgan so'rovnomalar hamda ijtimoiy tarmoqlar orqali o'tkazilgan so'rovlar (*bash mingdan ortiq empirik materiallar*), shuningdek, rasmiy statistik ma'lumotlar tahlillariga asoslangan bo'lib, tegishli hujjatlar bilan rasmiylashtirilgan. Xulosa, taklif hamda tavsiyalar aprotatsiyadan o'tkazilib, natijalari yetakchi milliy va xorijiy nashrlarda e'lon qilingan. Olingan natijalar vakolatli tuzilmalar tomonidan tasdiqlangan va amaliyotga joriy qilingan.

**Tadqiqot natijalarining ilmiy va amaliy ahamiyati.** Dissertatsiya asosiy qoidalarining ilmiy-amaliy ahamiyati shundan iboratki, ular favqulodda holatlarda inson huquq va erkinliklarini ta'minlashning huquqiy asosini mustahkamlaydi, alohida huquqiy rejim joriy qilingan hududlarda xalqaro gumanitar huquqni qo'llashni yanada rivojlantirishga o'z hissasini qo'shadi.

Tadqiqot ishida keltirilgan takliflardan ta'lim muassasalarida o'qitiladigan "Davlat va huquq asoslari", "Inson huquqlari", "Konstitutsiyaviy huquq", "Jinoyat huquqi", "Ma'muriy huquq" kabi bir qator huquqiy fanlarni o'qitishda foydalanish mumkin, shuningdek, "Xorijiy davlatlarning konstitutsiyaviy huquqi", "Davlat va huquq nazariyasi", "Inson huquqlari" fani va o'rganilayotgan mavzu bo'yicha boshqa ixtisoslashtirilgan kurslar va o'quv qo'llanmalarini ishlab chiqishda foydalanish maqsadga muvofiq bo'ladi.

**Tadqiqot natijalarining joriy qilinishi.** Tadqiqot ishi bo'yicha olingan ilmiy natijalar quyidagilarda o'z ifodasini topgan:

favqulodda holatlar sharoitida inson huquq va erkinliklarini cheklash bo'yicha taqdim etilgan takliflar, yangi tahrirdagi O'zbekiston Respublikasining Konstitutsiyasining 21-moddasining: "Insonning huquq va erkinliklari faqat qonunga muvofiq va faqat konstitutsiyaviy tuzumni, aholining sog'lig'ini, ijtimoiy axloqni, boshqa shaxslarning huquq va erkinliklarini himoya qilish, jamoat xavfsizligini hamda jamoat tartibini ta'minlash maqsadida zarur bo'lgan doirada cheklanishi mumkin" degan tahririda foydalanilgan (*O'zbekiston Respublikasi Oliy Majlisi Senatining 2023-yil 26-iyuldagi 19-son dalolatnomasi*). Ushbu taklifning qabul qilinishi yangi tahrirdagi O'zbekiston Respublikasi Konstitutsiyada faqat favqulodda holatlar sharoitidagina inson huquqlarini konstitutsiyaviy tizimni, aholi sog'lig'ini hamda jamoat xavfsizligini va jamoat tartibini saqlash maqsadlarida qisman cheklash mumkinligi to'g'risidagi konstitutsiyaviy qoidada mustahkamlandi;

O'zbekiston Respublikasining "Favqulodda holat to'g'risida"gi Konstitutsiyaviy qonunning 12-moddasi 4 va 7-qismlariga favqulodda holatlarda yig'ilishlar, mitinglar, ko'cha yurishlari, namoyishlar o'tkazishni taqiqlash yoki cheklash hamda o'ta muhim va toifalangan obyektlarning qo'riqlanishini kuchaytirishga oid takliflar asoslantirilgan (*O'zbekiston Respublikasi Oliy Majlisi*

*Senatining 2023-yil 26-iyuldagi 20-son dalolatnomasi*). Ushbu takliflarning qabul qilinishi mazkur qonunni qo'llash samaradorligini oshirishga xizmat qilgan;

O'zbekiston Respublikasining "Aholini va hududlarni tabiiy hamda texnogen xususiyatli favqulodda vaziyatlardan muhofaza qilish to'g'risida"gi qonuning 8-moddasiga Vazirlar Mahkamasining favqulodda vaziyatlarda shunday vaziyatlar yuz bergan hududlarga odamlarni va transport vositalarining kirib-chiqishini vaqtincha cheklash bilan bog'liq vakolatlarini kengaytirish haqidagi taklif asoslantirilib, uning qonun chiqaruvchi tomonidan inobatga olinishi favqulodda vaziyatlarda fuqarolarning hayoti, sog'lig'i va mulki daxlsizligini ta'minlashga xizmat qilgan (*O'zbekiston Respublikasi Oliy Majlisi Senatining 2023-yil 26-iyuldagi 21-son dalolatnomasi*);

O'zbekiston Respublikasining yangi tahrirdagi Konstitutsiyasi qabul qilinganligi munosabati bilan O'zbekiston Respublikasining ayrim qonun hujjatlariga, xususan, favqulodda holat joriy etilgan davrda O'zbekiston Respublikasi Oliy Majlisining Qonunchilik palatasi va Senatining tarqatib yuborilishini taqiqlovchi yangi normalar bilan to'ldirilganligi to'g'risidagi o'zgartirishlar hamda Vazirlar Mahkamasi davlat mudofaasi va xavfsizligini ta'minlash, tabiiy va texnogen xususiyatli favqulodda vaziyatlarni bartaraf etish, fuqarolarning hayoti va sog'lig'ini muhofaza qilish bilan bog'liq zaruriyat yuzaga kelgan vaziyatlarda, patent egasining mulkidan, uning roziligisiz foydalanib, bu haqda uni xabardor qilib, mutanosib miqdorda unga tovon to'lash shartlari asoslantirilishi va ushbu takliflarning inobatga olinishi yangi tahrirdagi Konstitutsiya normalarini bir xilda qo'llashga xizmat qiladi (*O'zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasining 2024-yil 26-fevraldagi 02/6-09-41-sonli dalolatnomasi*).

Dissertatsiya tadqiqotida keltirilgan taklif va tavsiyalar asosida "Inson huquqlari" fanini o'qitish yuzasidan metodologik tavsiyalar va "Inson huquqlari" fanini ta'lim muassasalarida o'qitish dasturi ishlab chiqildi. Ular O'zbekiston Respublikasi Jamoat xavfsizligi universiteti, O'zbekiston Respublikasi Huquqni muhofaza qilish akademiyasi hamda O'zbekiston Respublikasi Favqulodda vaziyatlar vazirligi akademiyasining o'quv jarayonida qo'llanilmoqda (*O'zbekiston Respublikasi Jamoat xavfsizligi universitetining 2025-yil 7-fevraldagi 346-sonli, Huquqni muhofaza qilish akademiyasining 2025-yil 3-martdagi, FVV Akademiyasining 2024-yil 19-martdagi 4b/2-880-sonli dalolotnomalari*).

**Tadqiqot natijalarining aprobatsiyasi.** Tadqiqotning asosiy natijalari, ilmiy xulosalar xalqaro hamda respublika darajasidagi ilmiy-amaliy anjumanlar, jumladan, 7 ta xalqaro va 4 ta respublika ilmiy-amaliy konferensiysida muhakomadan o'tkazilgan.

**Tadqiqot natijalarining e'lon qilinganligi.** Dissertatsiya mavzusi bo'yicha jami 33 ta ilmiy ish nashr etilgan, jumladan, OAK tomonidan ro'yxatga olingan milliy jurnallarda – 14 ta, xalqaro jurnallarda – 2 ta, ilmiy anjuman to'plamlarida – 14 ta maqola va tezis, shuningdek, 1 ta monografiya nashr etilgan.

**Dissertatsiyaning tuzilishi va hajmi.** Dissertatsiya kirish, beshta bob, xulosa, foydalanilgan adabiyotlar ro'yxati hamda ilovalardan iborat. Dissertatsiya hajmi 258 betni tashkil etadi.

## DISSERTATSIYANING ASOSIY MAZMUNI

Dissertatsiyaning **kirish** qismida tadqiqot mavzusining dolzarbligi va zarurati, tadqiqotning respublika fan va texnologiyalari rivojlanishining asosiy ustuvor yoʻnalishlariga bogʻliqligi, dissertatsiya mavzusi boʻyicha xorijiy ilmiy tadqiqotlar sharhi, muammoning oʻrganilganlik darajasi, mavzuning dissertatsiya bajarilayotgan oliy taʼlim muassasasining ilmiy-tadqiqot ishlari rejasiga bogʻliqligi, tadqiqotning nazariy va empirik asoslari, maqsadi va vazifalari, obyekti va predmeti, oʻrganish usullari, ilmiy yangiligi va amaliy natijalari, tadqiqot natijalarining ilmiy va amaliy ahamiyati, amaliyotga joriy qilinishi, aprotatsiyasi, natijalarning eʼlon qilinganligi, dissertatsiya hajmi va tuzilishi yoritilgan.

Dissertatsiyaning birinchi bobi **“Inson huquqlari va erkinliklarini cheklashning ilmiy-nazariy asoslari”** deb nomlanib, uning *“Inson huquq va erkinliklariga huquqiy cheklovlarning mohiyati va tasnifi”* ga bagʻishlangan birinchi paragrafida falsafa nuqtayi nazaridan inson huquq va erkinliklari tahlil qilinadi, tadqiqotchi yuridik fan sohasida ham shaxs huquqlari va erkinliklariga nisbatan huquqiy cheklovlarni bir xil qoʻllash masalasi bugungi kungacha hal qilinmaganligini, qonunchilik jarayonida va huquqni qoʻllash amaliyotida foydalanishning nazariy tushunishda qiyinchiliklar tugʻdirishini taʼkidlab oʻtadi. Tadqiqotchi, A.V. Malkoning fikriga qoʻshilgan holda cheklov bilan taqiqlov tushunchalari mazmunan yaqinligini bayon etib, har qanday taqiq cheklovdir, ammo huquq sohasidagi har bir cheklash taqiq emas, deb xulosa qiladi.

Dissertatsiyaning ushbu paragrafida inson huquq va erkinliklarini cheklash masalalarida bir qator olimlarning fikrlarini, qarashlarini tahlil qilinib, inson huquq va erkinliklarini cheklash tushunchasini mohiyatini ochib bergan, huquqiy tartibga solish usuli sifatida inson huquq va erkinliklarini, huquqiy cheklashning mualliflik taʼrifi berilgan. Shuningdek, dissertant inson huquq va erkinliklarini huquqiy cheklash shartlariga (huquqiy rejimga), maqsadlariga, asoslariga, subyektlariga, ushbu cheklovlarning mazmuniga va ularni qoʻllash tartibiga qarab, ularni bir qator turlarga ajratishni taklif qilgan.

*“Oʻzbekiston va xorijiy mamlakatlarda inson huquq va erkinliklarini qonuniy cheklashning konstitutsiyaviy-huquqiy asoslari”* nomli paragrafda dissertant inson huquq va erkinliklarini taʼminlash asnosida ayrim huquqlarni cheklash asoslarini tahlil qilish borasida yagona yondashuv mavjud emasligini eʼtirof etgan. Shuningdek, ushbu paragrafda huquqiy adabiyotlar asosida shaxs huquq va erkinliklarini cheklashning normativ (rasmiy) va faktik (moddiy) asoslarini keltirib oʻtgan, mazkur cheklovlarni qoʻllashda shaxsiy huquq va erkinliklar bilan jamoaviy huquqiy erkinliklar oʻrtasida tafovut mavjudligi, keyingi yillarda rivojlangan mamlakatlar konstitutsiyaviy rivojlanishida koʻproq jamoaviy (ommaviy) huquq va erkinliklarga koʻproq axamiyat berilayotganligi, bu tendensiyadan yangi tahrirdagi Oʻzbekiston Respublikasining Konstitutsiyasida ham foydalanilganligi qayd etilgan.

Shuningdek, Konstitutsiyaning bir qator yangi normalarida *“cheklash”* atamasi inson huquq va erkinliklariga nisbatan qoʻllanilishi (21 – *shaxsni erkin kamol topish huquqi*, 25 – *yashash huquqi*, 26 – *qiynoqlardan ozod boʻlish*, 27 – *daxlsizlik huquqi*, 28 – *aybsizlik prezumpsiyasi*, 29 – *malakali yuridik yordam olish huquqi*, 31 –

*shaxsiy hayot daxlsizligi, 32 – erkin harakatlanish huquqi, 33 – fikrlash, so‘z va e‘tiqod erkinligi, 37 – davlat xizmatiga kirish, 38 – miting va namoyish o‘tkazish huquqi, 67 – monopoliya faoliyati, va boshqa moddalar) aniq misollar bilan tahlil qilingan.*

Dissertatsiyada jamoat xavfsizligi va jamoat tartibi tushunchalariga yagona yondashuv mavjud emasligini ta’kidlanib, misol sifatida bu boradagi bir qator huquqshunos olimlarning fikrlari hamda AQSh, Buyuk Britaniya va Germaniya kabi xorijiy mamlakatlar qonunchiligidan misollar keltirilgan.

“*Qonunga itoatkor xulq-atvorga ega bo‘lgan shaxs huquq va erkinliklariga qonuniy cheklovlar*”ga bag‘ishlangan uchinchi paragrafda, yashash huquqi kabi har qanday vaziyatda cheklanmaydigan huquq bo‘yicha AQSh, Buyuk Britaniya, Germaniya, Fransiya kabi xorijiy mamlakatlar tadqiqotchilari bilan muloqatga kirishib ularning bir birini inkor etuvchi nuqtayi nazarlarini aytib, yashash huquqi cheklab bo‘lmaydigan huquq ekanligini ta’kidlagan va bu boradagi professor M.X. Rustambayevning nuqtayi nazarini qo‘llab quvvatlagan.

Shuningdek, dissertant inson huquq va erkinliklarni cheklashning yana bir turi din erkinligi masalasida to‘xtalib, AQSh, Buyuk Britaniya, Fransiya, Germaniya kabi mamlakatlarda din davlatdan ajratilganligini, biroq deyarli barcha g‘arb mamlakatlarida diniy liboslarda jamoat joylarida yurish, diniy ramzlarni taqib yurish, ta’lim muassasalariga kiyib kelishga taqiq qo‘yilganligini, ta’lim muassasalarida diniy ta’lim olishga ham cheklov qo‘yilganligini qayd etib, g‘arb mamlakatlarining din erkinligi sohasidagi qonunchiligi va amaliyotini O‘zbekiston Respublikasida amalda bo‘lgan bu boradagi qonunchilik normalari va amaliyot bilan taqqoslab, milliy qonunchilikda din simbolikalaridan foydalanish tartibi, davlat va ta’lim muassasalarida diniy liboslarda yurish-turish tartibi belgilanmaganligini mazkur qonunning jiddiy kamchiliklaridan biri sifatida keltirib o‘tib, ushbu qonunga o‘zgartirish va qo‘shimchalar kiritish maqsadga muvofiq, degan fikrni bayon qilgan.

Dissertatsiyaning ikkinchi bobi “**O‘zbekiston va xorijiy mamlakatlar qonunchiligida inson huquq va erkinliklarini huquqiy cheklash tizimi**” deb nomlanib, ushbu bobning “*Maxsus huquqiy maqomga ega bo‘lgan shaxslar uchun inson huquq va erkinliklarini qonuniy cheklash*” deb nomlangan paragrafida qoida tariqasida, bunday cheklovlar huquqni muhofaza qilish organlari xodimlari, harbiy xizmatchilar va boshqa davlat xizmatchilari uchun mo‘ljallanganligi, ushbu cheklovlarga: harakat erkinligi, vijdon va din erkinligi, sha’ni va qadr-qimmatini himoya qilish huquqi, maxsus kasbiy maqomga ega bo‘lgan shaxslarning shaxsiy hayoti huquqlari keltirib o‘tilgan.

Ushbu masalada Germaniya, AQSh, Rossiya Federatsiyasi kabi ko‘plab mamlakatlar qonunlarida 5 yildan oshmagan muddatga yoki mehnat shartnomasida belgilangan muddatlarda mamlakat hududini tark etish huquqi cheklanganligi, yangi tahrirdagi O‘zbekiston Respublikasining “Davlat sirlari to‘g‘risida”gi qonunining 30-moddasi 3-qismida “maxfiy” grifli maxfiy ma’lumotlar tashuvchilari uchun O‘zbekiston Respublikasi hududidan chiqish bir yilgacha belgilangan bo‘lsa-da, ushbu qonunning 30-moddasida keltirib o‘tilgan cheklovlarni davlat siri yoki xizmat sirlarini tashkil etuvchi ma’lumotlar bilan bevosita ishlamaydigan xodimlar va xizmatchilarga nisbatan tatbiq etish masalasini qayta ko‘rib chiqib, ularga nisbatan

bunday cheklovlarni olib tashlashlari maqsadga muvofiqligi haqida mazkur qonunga tegishli o'zgartirish va qo'shimchalar kiritishni taklif etilgan.

Diniy fikr bildirish erkinligiga nisbatan eng qattiq cheklovlar huquqni muhofaza qilish organlari xodimlari va harbiy xizmatchilarga yuklatilganligini, bunday cheklovlar davlat manfaatlarining ustuvorligi bilan asoslanishini aytib o'tib, dissertant bu boradagi yana yuqorida keltirib o'tilgan mamlakatlar amaliyotini tahlil qilib, davlat xizmatchilari xizmat faoliyati paytida diniy liboslar, ramzlardan foydalanishi mumkin emasligi va diniy ibodatlar qilishiga cheklovlar qo'yilganligini e'tirof etadi.

Shu munosabat bilan, tadqiqotchi 2024-yildagi "O'zbekiston Respublikasining ayrim qonun hujjatlariga O'zbekiston Respublikasi Qurolli Kuchlarining hamda huquqni muhofaza qiluvchi organlarning faoliyati samaradorligini oshirishga qaratilgan o'zgartirish va qo'shimchalar kiritish to'g'risida"<sup>1</sup> hamda "Manfaatlar to'qnashuvi to'g'risida"<sup>2</sup> qonunlarida huquqni muhofaza qiluvchi organlar, harbiy xizmatchilarga o'z xizmat vakolatlarini amalga oshirish jarayonida turli xil mukofot, sovg'alar olishi, tadbirkorlik faoliyati bilan shug'ullanishi, siyosiy partiyalarga a'zo bo'lish kabi bir qator cheklovlar qo'yilganligini qayd etib, unda keltirilgan istisno etuvchi holatlarni qonunda aniq bayon etish qonunni to'g'ri qo'llashda muhim ahamiyat kasb etishini bayon etib, shu qonunlarni takomillashtirish bo'yicha o'z takliflarini bildirilgan.

Ushbu bobning "*Ichki ishlar va Milliy gvardiya organlari tomonidan alohida huquqiy rejim sharoitida inson huquqlari va erkinliklariga cheklovlar qo'llashning xususiyatlari*" deb nomlangan paragrafida esa dissertant alohida huquqiy rejim sharoitida inson huquq va erkinliklarini cheklash borasida A.V. Malko va V.Y. Uxovlar tomonidan alohida huquqiy rejimlarga berilgan ta'riflarni ma'qullab, shu rejimlarning xususiyati va mohiyatini to'liq qamrab olgan va bu ta'rifga berilgan tushunchaga qo'shilishini ma'lum qilgan.

Tadqiqotchining fikricha, "Favqulodda holat to'g'risida"gi Konstitutsiyaviy qonunni fuqarolarning kundalik hayotiga zamonaviy axborot texnologiyalarini faol joriy etish bilan bog'liq vaziyatlarda, favqulodda vaziyat rejimi hududida Internetga kirishni qisman yoki to'liq cheklash to'g'risida, favqulodda holatlarda qo'llaniladigan cheklovlarni ichki ishlar yoki milliy gvardiya organlari tomonidan amalga oshirilishi to'g'risidagi aniq qoidalar bilan to'ldirish maqsadga muvofiq.

Shuningdek, dissertant O'zbekiston Respublikasining "Ma'muriy qamoqni o'tash tartibi to'g'risida"gi qonuniga favqulodda holatlar sharoitida ichki ishlar organlarining hibsga olish qabulxonalarida ma'muriy qamoq jazosini o'tash muddatini tartibga solish maqsadida ushbu qonuning 5-moddasini ma'muriy qamoq muddatini cho'zishga faqat sudning tegishli qarori asosida yo'l qo'yilishini nazarda

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<sup>1</sup> O'zbekiston Respublikasining 2024-yil 29-noyabrda "O'zbekiston Respublikasining ayrim qonun hujjatlariga O'zbekiston Respublikasi Qurolli Kuchlarining hamda huquqni muhofaza qiluvchi organlarning faoliyati samaradorligini oshirishga qaratilgan o'zgartirish va qo'shimchalar kiritish to'g'risida"gi O'RQ-1008-son Qonuni // Qonunchilik ma'lumotlari milliy bazasi, 02.12.2024-y., 03/24/1008/0988-son

<sup>2</sup> O'zbekiston Respublikasining 2024-yil 5-iyundagi "Manfaatlar to'qnashuvi to'g'risida"gi O'RQ-931-son Qonuni // Qonunchilik ma'lumotlari milliy bazasi, 05.06.2024-y., 03/24/931/0402-son

tutuvchi yangi ikkinchi qism bilan to'ldirish lozimligi asoslandi hamda qonun loyihasi ishlab chiqildi.

Ikkinchi bobning uchinchi paragrafi "*Maxsus huquqiy rejim sharoitida sud va prokuratura organlarining inson huquq va erkinliklarini cheklashga oid vakolatlari*"ga bag'ishlangan bo'lib, unda favqulodda vaziyatlarda prokuror va sudning roli ham qamrab olingan.

Dissertant prokurorlar cheklovchi choralar, ayniqsa, asosiy huquq va erkinliklarga ta'sir ko'rsatadigan holatlar va vaziyatlardan xabardor bo'lishlari, bunday cheklovlardan foydalanishda suiiste'molga yo'l qo'yimaslik, cheklanishi mumkin bo'lmagan huquqlarga nisbatan har qanday cheklovlar qo'llanishining oldini olishlari lozimligini e'tirof etib, sudyalari, sud xodimlari, advokatlar va prokurorlar o'z faoliyatlarini davom ettirishlari uchun komendantlik soati, harakatlanish cheklovlari va boshqa holatlardagi cheklovlar tadbiq etilsada, biroq cheklovlar, sud vakillari va tegishli mutaxassislar bunday choralar ko'rilmaydigan kasblar ro'yxatidan o'rin olib, ularning ish va vazifalarini bajarish qobiliyatini cheklanmaslik lozim degan xulosaga keladi.

Dissertatsiyaning uchinchi bobi "**Favqulodda holatda inson huquqlarini ta'minlashning xalqaro-huquqiy jihatlari**" deb nomlanib, uning "*Favqulodda holat institutining tushunchasi, mohiyati va xususiyatlari*" deb nomlangan birinchi paragrafida favqulodda holatning huquqiy rejimlarni joriy etishda turli xil yondashuvlar mavjudligi qayd etilgan, bir qator huquqshunos olimlarning (A.V. Melexin, V.V. Lastochkin, I.L. Dyachenko) bir biriga mos kelmaydigan ta'riflari keltirilgan.

Dissertant bu tadqiqotchilarning huquqiy rejim to'g'risidagi fikrlarini tahlil qilib, uni O'zbekiston Respublikasidagi mavjud mahalliy sharoitlarga moslashtirgan holda o'z ta'rifini berib o'tgan. Dissertantning ta'kidlashicha, ushbu huquqiy institut zamonaviy sharoitda faqat konstitutsiyaviy xususiyatga ega bo'lishi lozim.

Muallif dunyoning ko'plab mamlakatlari amaliyotida "favqulodda holat" tushunchasi turlicha nomlanishini, xususan, Jazoir, Angola, Bolgariya, Vengriya, Zimbabve, Hindiston, Iordaniya, Irlandiya, Misr, Marokash, Mali, Nikaragua, Polsha, Ruminiya, AQSh, Fransiya va boshqa mamlakatlar qonunchiligida "*favqulodda holat*" atamasi qo'llanilgan bo'lsa, Buyuk Britaniya, Vyetnam, Niderlandiya, Koreya Respublikasi, Filippin va boshqa davlatlar qonunchiligida "*harbiy holat*", Belgiya va Italiya kabi mamlakatlarda "*urush holati*", Germaniyada "*tahlikali holat*", Ispaniyada "*taxdid holati*", Gabonda "*xushyorlik holati*" kabi favqulodda holatlarning turli nomlanishini keltirib o'tgan. Shu munosabat bilan, dissertant favqulodda holatning yuridik institutining ta'rifini yangi tahrirdagi O'zbekiston Respublikasining Konstitutsiyasi talabidan kelib chiqqan holda, takomillashtirilgan tahririni taklif qilgan.

Mazkur bobning ikkinchi paragrafi "*Favqulodda holatlarda jamoat xavfsizligini ta'minlash va terrorizmga qarshi kurashishda inson huquq va erkinliklarini cheklash*" masalalariga bag'ishlangan bo'lib, unda terrorizm va ekstremizmga qarshi kurash bo'yicha xorijiy mamlakatlar tajribasi va xalqaro huquqiy hujjatlarda terrorizm va ekstremizmga qarshi kurash bo'yicha xalqora

standartlar talablari milliy qonunchilik normalari bilan uyg'unlashtirilgan holda bayon etilgan.

Shuningdek, muallif tomonidan terrorizm xavfi real mavjud bo'lgan vaziyatlarda inson huquq va erkinliklarini ta'minlash maqsadida joriy etiladigan cheklovlar xalqaro huquqning umume'tirof etilgan normalari talablariga javob berishi lozimligi asoslangan, milliy qonunchilik normalarini xalqaro standartlarga moslashtirish tavsiya etilgan.

Ushbu bobning uchinchi paragrafi "*Favqulodda holatlar joriy qilish bo'yicha xorij tajribasi*"ga bag'ishlangan bo'lib, unda dissertant AQSh, Buyuk Britaniya, Fransiya kabi g'arb mamlakatlari, Xitoy, Hindiston, Yaponiya kabi Osiyo mamlakatlaridagi favqulodda vaziyat rejimining turlari haqidagi ma'lumotlar bayon qilingan. Bu borada favqulodda holat rejimini joriy etish asoslari bir biridan farq qiladi, masalan, Fransiyada Prezidentning favqulodda choralar ko'rish to'g'risidagi qarori parlament yig'ilishida ma'qullanishi loziml. AQShda favqulodda rejim joriy etilishini hokimiyatning barcha uchta darajasi – federatsiya, shtatlar va mahalliy hokimiyat organlari ma'qullashi talab etiladi.

Dissertant fikricha, favqulodda holatlar aniq va tartibli bayon etilgan 1966-yilgi Fuqaroviy va siyosiy huquqlar to'g'risidagi xalqaro paktida favqulodda holat instituti juda qisqacha bayon etilgan. Uning mazmunini to'liq tushunish uchun boshqa hujjatlarga ham murojaat qilish zarurati tug'iladi va natijada favqulodda holat institutining maqsadi va mazmunini turli xalqaro huquqiy hujjatlardan izlashga to'g'ri keladi. Bu esa favqulodda holat institutining turli xil talqinlari kelib chiqishiga sabab bo'ladi.

Dissertatsiyaning to'rtinchi bobi "**Xalqaro-huquqiy va mintaqaviy hujjatlarda favqulodda holatlar ta'minlashning o'ziga xos xususiyatlari**" deb nomlangan. Ushbu bobning birinchi paragrafi "*Inson huquqlari bo'yicha xalqaro organlar tomonidan favqulodda holatlarni talqin qilishning xususiyatlari*" deb nomlanib, unda dissertant bir nechta xalqaro-huquqiy hujjatlarda keltirib o'tilgan "urush paytida yoki millat hayotiga tahdid soladigan boshqa favqulodda holatlar" tushunchasi mazmuni har xil xalqaro hujjatlarda turli mazmundagi so'zlar bilan ifoda etilganligini tahlil qilgan.

Bu holatlar Fuqaroviy va siyosiy huquqlar to'g'risidagi xalqaro paktning 4-moddasida "millat hayoti tahdid ostida qolgan va bu holat haqida rasmiy ravishda e'lon kilinganda"<sup>1</sup> degan jumlar bilan ifodalangan bo'lsa-da, Amerikalararo konvensiya, Inson huquqlari bo'yicha Yevropa konvensiyasi va Yevropa xartiyasida bu so'zlar boshqacha so'zlar bilan ifodalanganligini inobatga olib, xalqaro Pakt qoidalari ustunlikka egaligini qayd etilgan. Shu munosabat bilan dissertant davlatlar o'z hududlarida favqulodda holatlar joriy etganda asosan, Fuqaroviy va siyosiy huquqlar to'g'risidagi xalqaro paktning 4-moddasidagi talablardan kelib chiqish maqsadga muvofiqligini, asoslagan.

Dissertant Fuqaroviy va siyosiy huquqlar to'g'risidagi xalqaro paktning 4-moddasi 1-bandi, Inson huquqlari bo'yicha Amerika konvensiyasining 27-

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<sup>1</sup> Birlashgan Millatlar Tashkilotining inson huquqlari bo'yicha xalqaro shartnomalari to'plami. – T.: Inson huquqlari bo'yicha O'zbekiston Respublikasi Milliy markazi, 2023. – B. 14.

moddasini hamda Inson huquqlari bo'yicha Yevropa konvensiyasining 15-moddalari xalqaro organlar tomonidan o'tkazilgan monitoringini bayon etib, Inson huquqlari bo'yicha Amerikalalararo sud va Inson huquqlari bo'yicha Yevropa sudining joriy etiladigan cheklovlar ishtirokchi davlatlar har doim qonuniylik va qonun ustuvorligi prinsipinlarini ham hurmat qilishlari shartligini asoslaydi.

Ushbu bobning keyingi paragrafi *"Inson huquqlari bo'yicha chekinishga yo'l qo'yilmaydigan huquq va majburiyatlarning xususiyatlari"* deb nomlanib, dissertant cheklanishi mumkin bo'lmagan inson huquqlaridan yana biri orqaga qaytish kuchiga ega qonunlardan ozodlik huquqi va *"ne bis in idem prinsipi"* Xalqaro pakt, Amerikalalararo konvensiya va Yevropa konvensiyasi bilan kafolatlanishi haqida ham fikr bildirib, favqulodda holat, ayniqsa o'ta og'ir jinoyatlarga qarshi kurashish uchun orqaga qaytish kuchiga ega qonunlarni qabul qilish o'rinli tuyilsa-da, bu inson huquqlari bo'yicha xalqaro hujjatlar tomonidan qat'iy taqiqlanganligini, shu jumladan favqulodda holatda ham, har qanday muayyan harakatning oqibatlarini, jinoiy ta'qib qilish va tegishli sanksiyalarni asossiz qo'llashdan himoya qilinishi lozim deb hisoblaydi.

Shu o'rinda dissertant professor M.X. Rustambayevning jinoyat qonunchiligining qonunning orqaga qaytish kuchi haqidagi holatlari Jinoyat kodeksining (keyingi o'rinlarda JK) 13-moddasining 2 va 3-qismlarida mustahkamlanganligi, ularga muvofiq qilmishning jinoiyligini bekor qiladigan, jazoni yengillashtiradigan yoki shaxsning ahvolini boshqacha tarzda yaxshilaydigan qonun orqaga qaytish kuchiga egaligi to'g'risidagi fikrlariga qo'shilgan holda amaldagi JKdagi bu qoida Yevropa konvensiyasining 7-moddasi 1-bandi talablariga to'liq muvofiq kelishini e'tirof etgan.

**"O'zbekiston Respublikasida maxsus huquqiy rejimni joriy etishning xususiyatlari"** deb nomlangan beshinchi bobning birinchi paragrafi *"O'zbekistonda maxsus huquqiy rejimni joriy qilish amaliyoti"* deb nomlanib, ushbu paragrafda dissertant O'zbekiston Respublikasining davlat mustaqilligiga erishishdan oldingi davrida, alohida huquqiy rejim joriy etish masalasi faqat sobiq Ittifoq markazi tomonidan amalga oshirilib kelinganligini bayon etgan. Shuningdek, O'zbekistonning mustaqillik davrida ayrim hududlarda favqulodda holat joriy qilish amaliyoti qonuniy tahlil qilingan.

*"O'zbekiston Respublikasida favqulodda va harbiy holatni joriy etish jarayonida inson va fuqaroning huquq va erkinliklarini ta'minlashning ayrim jihatlari"* deb nomlangan paragrafda dissertant yangi tahrirdagi O'zbekiston Respublikasi Konstitutsiyasining 109-moddasida Prezidentning konstitutsiyaviy vakolatlari belgilanganligini bayon etib, 109-moddaning 18 va 19-bandlarida davlat rahbarining "urush holati" yoki "favqulodda vaziyat" e'lon qilish vakolatlari keltirib o'tilganini ta'kidlangan.

Dissertantning fikricha, yangi tahrirdagi Konstitutsiyada favqulodda holat joriy etish yuzasidan Prezident vakolati kengaytirilgan. Shu munosabat bilan, tadqiqotchining fikricha Konstitutsiyaning 109-moddasi 18-bandidagi "O'zbekiston Respublikasiga hujum qilinganda yoki tajovuzdan bir-birini mudofaa qilish yuzasidan tuzilgan shartnoma majburiyatlarini bajarish zaruriyati tug'ilganda urush

holati, umumiy yoki qisman safarbarlik e'lon qilishi"<sup>1</sup> to'g'risidagi qoida, O'zbekiston Respublikasining "Favqulodda holat to'g'risida"gi Konstitutsiyaviy qonunini asosiy tushunchalar berilgan 3-moddasida izoh berilib o'z ifodasini topsa, qonundagi bu bo'shliqqa barham berilgan bo'lardi.

Dissertatsiyaning "*Koronavirus (COVID-19) pandemiyasi sharoitida inson huquqlarini cheklashning ayrim xususiyatlari*" nomli paragrafida dissertant COVID-19 global pandemiyasi inson huquqlariga uzoq muddatli tahdid solganligini aytib, pandemiyaning dunyo bo'yicha tarqalishi inson huquqlari sohasida ham bir qator masalalarni kun tartibiga qo'yganligini, xususan, insonlarning harakatlanish erkinligi, yig'ilishlar, mitinglar, namoyishlar o'tkazish, kabi huquqlari vaqtincha cheklanganligi, shu sababli O'zbekistonda ham tegishli Farmon qabul qilinib, aholi o'rtasida karantin joriy etilib, jamiyat xavfsizligini ta'minlash uchun aholiga uyidan tashqariga chiqishi, ko'chaga chiqqanda esa shaxsiy himoya vositasi (niqob)da bo'lishi, oradagi masofani saqlash shartligi, ommaviy tadbirlar, to'y-tomoshalar o'tkazish ham cheklanganligini bayon qilgan.

Tadqiqotchi BMTning "2019-yilgi koronavirus (COVID-19) bilan kasallanishga qarshi kurashishda global hamkorlik" rezolyutsiyasini<sup>2</sup> qabul qilishda O'zbekiston Respublikasining ishtirokiga ijobiy baho berib, COVID-19 kabi favqulodda vaziyatlar vujudga kelganda, agar bunday cheklovlar qonuniy ravishda joriy etilsa, o'ta zarur va ilmiy jihatdan asoslangan bo'lishini ta'kidlagan.

## XULOSA

Inson huquqlarini ta'minlash va favqulodda holatlarda qonunda nazarda tutilgan holatlardagina ayrim huquqlarni vaqtincha cheklash bo'yicha olib borilgan tadqiqotlar natijasida quyidagi ilmiy xulosalar, taklif hamda tavsiyalar ishlab chiqildi:

### I. Ilmiy-nazariy xulosalar

1. Tadqiqot natijalariga ko'ra, dissertatsiyada favqulodda holatlarda huquq va erkinliklarni qonuniy cheklash konsepsiyasi majburiy xarakterdagi huquqiy tartibga solish usuli sifatida taklif qilingan bo'lib, u Konstitutsiya va qonunlar asosida qonunga itoatkor fuqarolarning davlat tomonidan qonunda ruxsat etilgan xatti-harakatlarining chegaralarini (hajmini kamaytirish) belgilashdan iborat – shaxs erkinligi va jamoat manfaatlarining qadr-qimmatini himoya qilish yoki jamoat manfaatlarini himoya qilish maqsadida huquqbuzarlik sodir etgan shaxsning huquq va erkinligini cheklash orqali uning huquqiy maqomini vaqtincha chegaralash taklif etilgan.

2. Xorijiy va milliy qonunchilik, yuridik adabiyotlar tahlili asosida "*maxsus huquqiy rejim*", "*tan omaslik*", "*toraytirish*", "*to'xtatib turish*", "*cheklash*",

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<sup>1</sup> O'zbekiston Respublikasi Konstitutsiyasi. Rasmiy nashr. – T.: Adolat, 2023. – B. 188.

<sup>2</sup> *Qarang*: Resolution adopted by the General Assembly on 2 April 2020 74/270. Global solidarity to fight the coronavirus disease 2019 (COVID-19) // UN Document A/RES/74/270 /URL: <https://docs.un.org/en/A/RES/74/270>

*“urush holati yoki qurolli to‘qnashuv”, “favqulodda holat”, “favqulodda holatlarda jamoat tartibini saqlash”, “huquqdan mahrum qilish”, “qamal holati”* tushunchalariga nisbatan zamonaviy yondashuvdagi quyidagicha mualliflik ta’riflari shakllantirildi va ularni milliy qonunchilikka kiritish zarurati asoslantirildi:

*Maxsus huquqiy rejim* deganda O‘zbekiston Respublikasining suvereniteti va hududiy yaxlitligiga, konstitutsiyaviy tuzumiga, fuqarolarining huquqlari va erkinliklariga tashqi va ichki tahdidlar yuzaga kelgan taqdirda, O‘zbekiston Respublikasi yoki uning bir qismi hududida O‘zbekiston Respublikasi Prezidenti tomonidan joriy etiladigan rejimlar tushuniladi va nafaqat davlat hokimiyati, mahalliy o‘zini o‘zi boshqarish organlari, balki huquqiy munosabatlarning boshqa subyektlari faoliyatining: korxonalar, muassasalar, tashkilotlar, jismoniy va yuridik shaxslar maxsus rejimini nazarda tutadi;

*Tan olmaslik* – bu muayyan huquqlarni huquqiy mustahkamlash yo‘qligi (masalan, chet elliklar uchun, ba’zi siyosiy huquqlarning cheklanishi) yoki ularning mensimaslik (masalan, davlat o‘z fuqarosi uchun boshqa davlat fuqaroligini o‘lganligini tan olmaslik);

*Toraytirish* – bu huquq (erkinlik) mazmuni va ko‘lamining qisqarishi;

*To‘xtatib turish* – bu huquqdan mahrum qilish yoki tiklash to‘g‘risida yakuniy qaror qabul qilinmaguncha huquqni vaqtincha cheklash (masalan, jinoyat sodir etishda gumon qilinuvchini ushlab turish va ushlab turish paytida shaxsiy erkinlikni cheklash);

*Cheklash* – bu shaxs huquq erkinligi va jamoat manfaatlarining qadr-qimmatini himoya qilish maqsadida qonunga bo‘ysunuvchi shaxsning ruxsat etilgan xatti-harakatlari chegaralarini Konstitutsiya va boshqa qonunlar asosida mumkin qadar qisqartirish (hajmini kamaytirish), shu bilan bir vaqtda shaxsiy erkinlik va jamoat manfaatlarini himoya qilish maqsadida (ruxsat berish) yoki qonuniy huquqdan chetlashtirishdan iborat bo‘lgan majburlash xususiyatiga ega huquqbuzarlik sodir etgan shaxsning maqomini, davlat tomonidan belgilashdir.

*Urush holati yoki qurolli to‘qnashuv* deganda favqulodda holatning bir turi tushunilib, xalqaro huquqiy diplomatik protsedurada va milliy qonunchilikda nazarda tutilgan holatga aytilib, rasmiy belgilangan tartibda bir Davlat tomonidan boshqa Davlatga yoki jinoiy qurolli jangari to‘dalarga ular o‘rtasida tinchlikni to‘xtatish va urush holatiga o‘tish to‘g‘risida ogohlantirishdan iboratdir”.

*Favqulodda holat* – bu O‘zbekiston Respublikasi Konstitutsiyasiga muvofiq O‘zbekiston Respublikasi Prezidenti tomonidan mamlakatimizning butun hududida yoki ayrim joylarda, O‘zbekiston Respublikasi Konstitutsiyaviy tuzumiga real tahdidlar bo‘lgan taqdirda joriy etilgan davlat hokimiyati va boshqaruvi organlari faoliyati uchun maxsus huquqiy rejimni belgilaydigan tarmoqlararo huquqiy institut bo‘lib, u vaziyatni tezda normallashtirish, qonuniylik va tartibotni tiklash, fuqarolar xavfsizligiga tahdidlarni bartaraf etish va ularga zarur yordam ko‘rsatish, fuqarolarning xavfsizligi yoki respublika konstitutsiyaviy tuzumni himoya qilish maqsadida joriy etiladi;

*Favqulodda holatlarda jamoat tartibini saqlash* – bu jamoat joylarida odamlar o‘rtasida vujudga keladigan va rivojlanadigan, qonuniy amalga oshirilishi shaxsiy va jamoat xavfsizligiga rioya etilishini, odamlarning normal muloqotini, sha’ni,

qadr-qimmatini, hayoti va sog'lig'ini himoya qilinishi, huquqni muhofaza qiluvchi organlar, birinchi navbatda, ichki ishlar organlari, milliy gvardiya, prokuratura, davlat xavfsizlik xizmati, favqulodda vaziyatlar vazirligi va boshqa fuqarolik tashkilotlari faoliyati bilan ta'minlangan davlat va jamiyatning muvofiqlashtirilgan ijtimoiy-huquqiy jamoat munosabatlari tizimi;

*Huquqdan mahrum qilish* – bu muayyan huquqlarning bekor qilinishi. Masalan, chet elliklarni mamlakatdan chiqarib yuborish orqali O'zbekistonda qolish huquqidan mahrum qilish yoki shaxsni maxsus huquqdan mahrum qilish;

*Qamal holatda* muhim strategik ahamiyatga ega bo'lgan, biron bir hudud, shahar yoki harbiy obyektning dushman tomonidan qurshab olinib, oziq-ovqat, doridarmon, suv, qurol-yarog', yordamchi kuchlar va boshqa resurslarning kirib kelishi cheklanadi yoki to'xtatiladi. Bu taktika dushmanni taslim bo'lishga majbur qilish yoki uning kuchini susaytirish maqsadida qo'llaniladi.

3. Favqulodda holat instituti har doim ham ma'lum bir davlat Konstitutsiyasida batafsil detalli tartibga solinmasada, davlat hokimiyatini amalga oshirishning odatiy, oddiy rejimi Konstitutsiya bilan belgilanganidek, favqulodda vaziyat rejimi ham Konstitutsiya bilan belgilanishi kerak. Shuningdek, maxsus huquqiy rejim faqat davlatning suvereniteti, xavfsizligi va hududiy yaxlitligi, odamlarning normal hayotiy faoliyatiga, sanoat, maishiy, iqtisodiy va boshqa faoliyat turlariga to'sqinlik qiladigan vaziyatlarda joriy etilishi zarur.

4. Yuridik fanda shaxs huquqlari va erkinliklariga nisbatan huquqiy cheklovlarni bir xil qo'llash masalasi bugungi kungacha hal qilinmaganligi, huquq va erkinliklarni cheklashning mohiyati, o'ziga xos belgilari va xususiyatlarini aniqlashda yagona yondashuv mavjud emasligi, qonunchilik jarayonida va huquqni qo'llash amaliyotida foydalanishni nazariy tushunishda qiyinchiliklar tug'dirishi xorijiy mamlakatlar tajribasi orqali isbotlandi.

5. Hozirgi vaqtda ommaviy (jamoat va davlat) manfaatlar huquq va erkinliklarning cheklanishini asoslashda muhim rol o'ynashi sababli, dunyo mamlakatlari konstitutsiyaviy rivojlanishida ommaviy (jamoaviy) huquqlarga ko'proq ustunlik berilayotganligi, bu holat O'zbekiston Konstitutsiyasining bir qator yangi moddalaridagi "cheklash" atamasi inson va fuqarolik huquqlari va erkinliklariga nisbatan eng ko'p qo'llanilishi (Konstitutsiyaning "Inson va fuqarolarning asosiy huquqlari, erkinliklari va burchlari" deb nomlangan ikkinchi bo'limining quyidagi: 21, 27, 28, 29, 31, 32, 33, 37 va boshqa moddalari) isbotlandi.

6. O'zbekiston Respublikasining butun hududida yoki ayrim hududlarida favqulodda holat joriy etilganda, O'zbekiston Respublikasi Konstitutsiyasining 21 – shaxsni erkin kamol topish huquqi, 25 – yashash huquqi, 26 – qiynoqlardan ozod bo'lish, 27 – daxlsizlik huquqi, 28 – aybsizlik prezumpsiyasi, 29 – malakali yuridik yordam olish huquqi, 31 – shaxsiy xayot daxlsizligi, 32 – erkin harakatlanish huquqi, 33 – fikrlash, so'z va e'tiqod erkinligi, 37 – davlat xizmatiga kirish, 38 – miting va namoyish o'tkazish huquqi, 67 – monopoliya faoliyati to'g'risidagi moddalarida nazarda tutilgan huquq va erkinliklari cheklanmasligi asoslantirildi.

7. Mamlakatga koronavirus infeksiyasini kirib kelishi munosabati bilan uni bartaraf etishga yo'naltirilgan milliy qonunchilik normalari tahlil qilindi. COVID-19 davrida joriy etilgan cheklovlar haqida fikr va mulohazalar bildirildi.

Koronavirus infeksiyasining salbiy oqibatlarini bartaraf etish yuzasidan O‘zbekiston Respublikasida sog‘liqni saqlash, iqtisodiyot, ma‘muriy-huquqiy yo‘nalishlarda amalga oshirilgan ishlar ko‘lami va natijalariga baho berildi.

## **II. Favqulodda holatlarga oid qonunchilikni normativ-huquqiy bazasini takomillashtirish yuzasidan taklif va tavsiyalar**

1. O‘zbekiston Respublikasining yangi tahrirdagi Konstitutsiyasi 21-moddasining 3-qismi quyidagi tahrirda bayon etilishi taklif qilindi: *“Insonning huquq va erkinliklari faqat qonunga muvofiq va faqat konstitutsiyaviy tuzumni, aholining sog‘lig‘ini, ijtimoiy axloqni, boshqa shaxslarning huquq va erkinliklarini himoya qilish, jamoat xavfsizligini hamda jamoat tartibini ta‘minlash maqsadida zarur bo‘lgan doirada cheklanishi mumkin”*.

2. O‘zbekiston Respublikasining “Aholini va hududlarni tabiiy hamda texnogen xususiyatli favqulodda vaziyatlardan muhofaza qilish to‘g‘risida”gi qonuning 8-moddasiga *“Vazirlar Mahkamasining favqulodda vaziyatlarda shunday vaziyatlar yuz bergan hududlarga odamlarni va transport vositalarining kirib-chiqishini vaqtincha cheklash”* bilan bog‘liq taklif asoslantiriladi.

3. Yangi tahrirdagi O‘zbekiston Respublikasi Konstitutsiyasi qabul qilinganligi munosabati bilan O‘zbekiston Respublikasining ayrim qonun hujjatlariga O‘zbekiston Respublikasi Oliy Majlisining faoliyatini takomillashtirilishga qaratilgan o‘zgartirish va qo‘shimchalar taklif etiladi, xususan:

- “O‘zbekiston Respublikasi Oliy Majlisi Senati to‘g‘risida”gi Konstitutsiyaviy qonunning 29-moddasi uchinchi qismida *“Senat favqulodda holat amal qilib turgan davrda tarqatib yuborilishi mumkin emas”* jumlasini bayon etishda;
- “O‘zbekiston Respublikasi Oliy Majlisining Qonunchilik palatasi to‘g‘risida”gi Konstitutsiyaviy qonunning 34-moddasi uchinchi qismida *“Qonunchilik palatasi favqulodda holat amal qilib turgan davrda tarqatib yuborilishi mumkin emas”* mazmundagi takliflar asoslantirildi.

4. O‘zbekiston Respublikasi milliy qonunchiligini Jahon savdo tashkiloti bitimlariga muvofiqlashtirish maqsadida *“Ixtirolar, foydali modellar va sanoat namunalari to‘g‘risida”*gi qonuniga quyidagilar taklif qilinadi:

- 12-moddaning to‘rtinchi xatboshisi bayon etishda: *“patentlar bilan muhofaza qilinadigan sanoat mulki ob‘ektlaridan tarkib topgan vositalarni tabiiy ofatlar, halokatlar, epidemiyalar va boshqa favqulodda holatlarda patent egasini eng qisqa muddatda xabardor qilgan va keyinchalik mutanosib miqdorda unga tovon to‘lagan holda qo‘llash”*;
- 32-moddaning to‘rtinchi va beshinchi qismlarini bayon etishda: *“O‘zbekiston Respublikasi Vazirlar Mahkamasi davlat mudofaasi va xavfsizligini ta‘minlash, tabiiy va texnogen xususiyatli favqulodda vaziyatlarni bartaraf etish, fuqarolarning hayoti va sog‘lig‘ini muhofaza qilish bilan bog‘liq so‘nggi zaruriyat yuzaga kelgan taqdirda, sanoat mulki ob‘ektidan patent egasining rozilgisiz foydalanilishiga uni bu haqda eng*

*qisqa muddatda xabardor qilgan va keyinchalik mutanosib miqdorda unga tovon to'lagan holda ruxsat berishi mumkin*".

5. O'zbekiston Respublikasining yangi tahrirdagi "Davlat sirlari to'g'risida"gi Qonunining 30-moddasining 3 qismini quyidagi tahrirdagi qo'shimcha bilan to'ldirish: *"maxfiy" grifli maxfiy ma'lumotlar tashuvchilari davlat siri yoki xizmat sirlarni tashkil etuvchi ma'lumotlar bilan bevosita ishlamaydigan xodimlar va fuqarolik xizmatchilariga nisbatan bunday cheklovlarni olib tashlanishi lozim*" taklif etiladi.

6. O'zbekiston Respublikasining 2021-yil 5-iyulida "Vijdon erkinligi va diniy tashkilotlar to'g'risida"gi O'RQ 699-sonli qonunning 7-moddasini yangi quyidagi tahrirdagi 6-band bilan to'ldirish taklif etiladi: *"Davlat xizmatchilari o'z xizmat faoliyati vaqtida diniy liboslarda yurishlari, diniy ramzlardan foydalanishlari va ibodat qilishlari cheklanadi"*.

7. O'zbekiston Respublikasining "Manfaatlar to'qnashuvi to'g'risida"gi qonuni davlat xizmatchilari va mansabdor shaxslari tomonidan xizmat faoliyati davomida mansab vakolatlarini suiiste'mol qilishning oldini olish maqsadida qonunning 8-moddasi 4-bandini yangi tahrirdagi *"davlat xizmatchilari tomonidan o'z mol-mulkini deklarasiya qilmasdan yashirganligi uchun qonun hujjatlarda nazarda tutilgan holda javobgarlikka sabab bo'ladi"* degan band bilan to'ldirish taklif etiladi.

8. O'zbekiston Respublikasining "Ma'muriy qamoqni o'tash tartibi to'g'risida"gi qonuniga favqulodda holatlar sharoitida ichki ishlar organlarining xibsga olish qabulxonalarida ma'muriy qamoq jazosini o'tash muddatini tartibga solish maqsadida ushbu qonun 5-moddasini *"ma'muriy qamoq muddatini cho'zish faqat sudning tegishli qarori asosida yo'l qo'yiladi"* degan yangi ikkinchi qism bilan to'ldirish yuzasidan qonun loyihasi ishlab chiqildi (*dissertatsiyaga ilova qilinadi*).

9. O'zbekiston Respublikasining yangi tahrirdagi Konstitutsiyasi 33-moddasi uchinchi qismiga asosan fuqarolarning kundalik hayotiga zamonaviy axborot texnologiyalarini faol joriy etish bilan bog'liq vaziyatni tahlil qilib, favqulodda holat rejimi hududida Internetga kirishni qisman yoki to'liq cheklash to'g'risida "Favqulodda holatlar to'g'risida"gi Konstitutsiyaviy qonuniga qo'shimchalar kiritishning maqsadga muvofiqligi asoslandi.

10. O'zbekiston Respublikasining yangi tahrirdagi Konstitutsiyasining 109-moddasi 18-bandidagi urush holati e'lon qilish tartibi Urush vaqtida fuqaro aholini himoya qilish to'g'risida 1949-yilgi Jeneva (IV) konvensiyasi talablariga muvofiqlashtirilib, O'zbekiston Respublikasining "Favqulodda holat to'g'risida"gi Konstitutsiyaviy qonunining 3-moddasida uning quyidagi ta'rifini berish taklif etiladi: *"Urush holati" yoki "qurolli toqnashuv" – favqulodda holatning bir turi tushunilib, xalqaro huquqiy diplomatik procedurada va milliy qonunchilikda nazarda tutilgan holatga aytilib, rasmiy belgilangan tartibdabir davlat tomonidan boshqa davlatga yoki jinoiy qurolli jangari to'dalarga ular o'rtasida tinchlikni to'xtatish va urush holatiga o'tish to'g'risida ogohlantirishdan iboratdir"*.

11. O‘zbekiston Respublikasining 2021-yil 22-apreldagi “Davlat xaridlari to‘g‘risida”gi qonuniga favqulodda holatlar joriy etilgan hududlarda qo‘llanilgan cheklovlar sababli tadbirkorlik subyektlari shartnoma majburiyatlarini bajara olmagan taqdirda, ularni javobgarlikdan ozod etish to‘g‘risidagi norma kiritilishi taklif etildi.

### **III. Favqulodda holatlarda inson huquq va erkinliklarini cheklash faoliyatini samaradorligini oshirishga qaratilgan tavsiyalar**

1. Inson va fuqarolik huquqlari va erkinliklarini huquqiy cheklash shartlariga (huquqiy rejimga), maqsadlariga, asoslariga, subyektlariga, ushbu cheklovlarning mazmuniga va ularni qo‘llash tartibiga qarab, ularni quyidagi turlarga ajratish taklif etiladi:

*Birinchi*dan, inson huquq va erkinliklarni cheklashni asosiy qismini xalqaro-huquqiy hujjatlarda nazarda tutilgan cheklash va milliy qonunchilikda keltirib o‘tilgan cheklashga ajratish;

*Ikkinchi*dan, odatiy huquqiy rejimning elementi bo‘lgan huquq va erkinliklarni cheklash;

*Uchinchi*dan, favqulodda vaziyatlar bilan bog‘liq cheklovlar: a) qonunga bo‘ysunuvchi shaxslarning huquqlari va erkinliklarini qisqa muddatga cheklash; b) shaxs huquqbuzarlik sodir etganda huquq va erkinliklarni cheklash.

2. O‘zbekiston Respublikasi Oliy sudining umumiy yurisdiksiya sudlari uchun “*Favqulodda holatlar davrida inson huquq va erkinliklarini ta’minlashga oid ishlar bo‘yicha sud amaliyoti to‘g‘risida*”gi Plenumi qaror loyihasi ishlab chiqilib, unda sud amaliyotida inson huquq va erkinliklarini cheklashga oid ishlarni ko‘rib chiqishning protsessual tartibini joriy etish taklif etiladi.

3. Favqulodda holat davrida hatto komendantlik soati joriy qilingan, harakatlanishga cheklovlar qo‘yilgan paytlarda ham sud vakillari va tegishli mutaxassislar bunday choralar ko‘rilmaydigan kasb egalari ro‘yxatiga kiritilib, ularning xizmat vazifalarini bajarish qobiliyatini cheklamaslik to‘g‘risida tavsiya etiladi.

4. Tadqiqot natijasida ishlab chiqilgan taklif va tavsiyalar asosida “Inson huquqlari” fanini o‘qitish yuzasidan metodologik tavsiyalar va “Inson huquqlari” fanini ta’lim muassasalarida o‘qitish dasturi ishlab chiqildi (*dissertatsiyaga ilova qilinadi*). Shuningdek, O‘zbekiston Respublikasi Jamoat xavfsizligi universiteti, O‘zbekiston Respublikasi Huquqni muhofaza qilish Akademiyasi hamda O‘zbekiston Respublikasi Favqulodda vaziyatlar vazirligi Akademiyasining o‘quv jarayonida “Favqulodda holatda inson huquqlarini ta’minlash” maxsus o‘quv kursini joriy etish taklif qilinadi.

**SCIENTIFIC COUNCIL No. DSs. 39/30.11.2020. Yu/S. 128.01 FOR  
AWARDING SCIENTIFIC DEGREES AT THE NATIONAL CENTER OF  
THE REPUBLIC OF UZBEKISTAN FOR HUMAN RIGHTS**

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**LAW ENFORCEMENT ACADEMY OF THE REPUBLIC OF  
UZBEKISTAN**

**ALIMOV GAIBULLA ALIMOVICH**

**THE LEGAL BASIS FOR ENSURING HUMAN RIGHTS  
AND FREEDOMS IN CASE OF EMERGENCY:  
INTERNATIONAL AND NATIONAL EXPERIENCE**

12.00.13 – Human Rights

**ABSTRACT**

**of the dissertation of the doctor of science (DSc) on legal sciences**

**Tashkent – 2025**

**The theme of the doctoral dissertation (DSc) was registered at the Supreme Attestation Commission under the Ministry of Higher Education, Science and Innovations of the Republic of Uzbekistan under number B2023.3.DSc/Yu262.**

The dissertation has been prepared at the Law Enforcement Academy of the Republic of Uzbekistan.

The abstract of the dissertation is posted in three languages (Uzbek, English, Russian (summary)) on the web-site of the Scientific Council ([www.nhrc.uz](http://www.nhrc.uz)) and on the information-educational portal “ZiyoNET” ([www.ziyo.net](http://www.ziyo.net)).

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The defense of the dissertation will be held on June, 13, 2025 at 15.00 at the meeting of the Scientific Council No. DSc.39/30.11.2020.Yu/S.128.01 for awarding scientific degrees the National Center of the Republic of Uzbekistan for Human Rights (Address: 100029, Tashkent city, Islam Karimov st. 15, Tel: (99871) 239-40-23; e - mail: [info@nhrc.uz](mailto:info@nhrc.uz)).

The doctoral dissertation is available at the Information-Resource Center of the National Center of the Republic of Uzbekistan for Human Rights (registered under No. 8), (Address: 100029, Tashkent city, Islam Karimov st. 15, Tel: (99871) 239-40-23).

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## INTRODUCTION (annotation of doctoral dissertation (DSc))

**The actuality and relevance of the dissertation theme.** In the modern world, ensuring and implementing human rights and freedoms are among the most pressing and complex problems of our time. Globalization processes have not only heightened awareness of the value and inviolability of fundamental rights and freedoms but have also placed urgent emphasis on protecting them from various forms of unlawful infringement, threats, and natural disasters. According to the World Meteorological Organization, the number of natural disasters has increased fiftyfold over the past five years. Specifically, since 1970, more than 11,000 disasters have occurred, resulting in over 2 million deaths and causing approximately USD 3.64 trillion in economic losses. However, advancements in emergency preparedness and mitigation systems have led to a threefold reduction<sup>1</sup> in fatalities. At the same time, the development experiences of many countries demonstrate that the absolute and unconditional nature of human rights and freedoms sometimes does not align with the natural state and the legitimate interests of state development, allowing for the exercise of individual freedom within certain limits and providing opportunities for others to exercise their rights.

In today's unstable and risk-prone world, examining the concept of human rights particularly their assurance under exceptional circumstances such as emergencies or armed conflicts and exploring the grounds and limits of restricting specific categories of rights and freedoms, is of critical importance. The imposition of restrictions on human rights is addressed in key international legal instruments, such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. These documents confirm that the international community not only recognizes a defined set of rights but also holds the authority to monitor emergency measures undertaken by states. This highlights the necessity of ensuring effective international guarantees and mechanisms for human rights protection.

The "Uzbekistan-2030" Strategy, in its Goal 87, emphasizes the need to align the activities of law enforcement agencies with the protection of human interests, dignity, and rights. This principle becomes especially relevant as a safeguard against the abuse of power in restricting human rights and freedoms. In this regard, it is noted that in recent years, various regions around the world have faced growing armed conflicts, ecological and technogenic disasters, economic crises, "trade wars," and threats of terrorism and extremism. These complex circumstances demand an increased role for parliaments in ensuring peace, social development, and justice globally<sup>2</sup>.

The dissertation contributes to fulfilling the tasks outlined in the Constitution of the Republic of Uzbekistan (2023), the Constitutional law on "Emergency Situations" (2021), the Law on "Protecting the Population and Territories from

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<sup>1</sup> <https://wmo.int/ru/media/news/za-poslednie-50-letuvelichilos-chislo-svyazannykh-s-pogodoy-bedstviy-oni-prichinyayut-bolshe>.

<sup>2</sup> Speech by the President of the Republic of Uzbekistan at the 150th session of the Inter-Parliamentary Union. // <https://president.uz/uz/lists/view/8034>

Natural and Technogenic Emergency Situations” (2022), the Decree of the President of the Republic of Uzbekistan dated September 11, 2023, on the “Uzbekistan – 2030” Strategy, as well as the National Strategy on Human Rights of the Republic of Uzbekistan<sup>1</sup> and other legislative acts, serve to implement issues related to ensuring human rights during emergency situations to a certain extent.

**The compliance of the research with the priority directions of scientific and technological development of the republic.** This dissertation was completed in accordance with the priority direction of the republic's science and technology development I. “Ways to form a system of innovative ideas and implement them in the social, legal, economic, cultural, spiritual and educational development of an information society and a democratic state”.

**Review of foreign scientific research on theme of the dissertation<sup>2</sup>.** Significant academic research on the protection and realization of human rights during emergencies has been conducted by leading global institutions and public organizations. Notable contributors include – *United States*: Georgetown University, University of Maryland, Florida Institute of Technology, Emergency Management Institute, Stanford University's Center for International Security and Cooperation, and Harvard University's Belfer Center for Science and International Affairs; *Canada*: University of British Columbia; *Germany*: Bayerische Feuerwehrschnule (BFS); *Denmark*: Danish Institute for Human Rights; *China*: China Campus Network Consortium of leading higher education institutions.

For example, Georgetown University has studied human rights protection in counterterrorism and national security contexts, while Harvard’s Belfer Center has conducted strategic analyses of human rights in international relations and conflict scenarios. The University of Colorado Boulder's Natural Hazards Center has investigated rights protection in natural disasters such as earthquakes, floods, and hurricanes.

Among CIS countries, institutions such as Russia’s Academy of Civil Defense, Saint Petersburg University of Fire Safety, Kazakhstan’s Academy of Civil Defense, and the Academy of the Ministry of Emergency Situations of Uzbekistan have conducted research on guaranteeing rights and freedoms under emergency conditions, as well as defining the legal parameters and criteria for imposing restrictions.

Currently, authoritative international bodies including the UN Human Rights Council, the UN Committee on the Rights of the Child, the Committee on the Elimination of Racial Discrimination, the Human Rights Committee, the Council of Europe, the European Union and the OSCE are actively working to prevent abuse of power by state authorities during emergencies and to expand the list of rights that cannot be restricted under any circumstances. Judicial practices of the Inter-American and European Courts of Human Rights also serve as important sources of precedent in evaluating state conduct under emergency measures and issuing relevant decisions.

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<sup>1</sup> Decree of the President of the Republic of Uzbekistan No.6012 dated June 22, 2020, "On the Approval of the National Strategy of the Republic of Uzbekistan on Human Rights" // <https://lex.uz/ru/docs/-4872355>

<sup>2</sup> The overview of international scientific research on the topic of the dissertation is given in the list of used literature.

These international organizations and institutions have provided detailed analyses and policy recommendations regarding the theoretical and practical challenges of restricting certain rights in emergencies, as documented in their reports, research papers, and public statements.

**The Extent of the Study of the Research Problem.** In Uzbekistan, while no comprehensive studies have been conducted specifically on the restriction of human rights and freedoms during states of emergency, various aspects of this issue have been addressed in the works of scholars such as Academician A.Kh. Saidov, and researchers G.A. Abdumajidov, M.Kh. Rustambaev, A.B. Gafurov, M.A. Tillabaev, A.A. Tulaganov, I.T. Turgunov, M.T. Turgunov, B.N. Toshev, G.Y. Yuldasheva, A.R. Muminov, A.A. Matchonov<sup>1</sup>, and others.

Legal and organizational aspects of civil protection during emergencies in Uzbekistan have also been explored at the national level by scholars including S. Khusanova, N. Nazarova, and A. Tursunov.

Within the CIS region, constitutional and legal foundations for limiting rights and freedoms during emergencies have been studied by scholars such as T. Khabrieva, A. Abashidze, A. Kovler, B. Tuzmukhamedov, Y. Shelegov, A. Yusupov, M. Tkharkakho, O. Vinogradov, A. Kropacheva, O. Omarov, D. Ikramov, and Y. Kazimirskaya.

From a global legal perspective, numerous international scholars including R. Bernhardt, B. Wiser, F. Iacobucci, A. Cariola, A. Chayo, K. Eckstein, A. Lopez-Pina, R. Arnold, A. von Arnold, K. Meiner-Brockmann, T. Mouns, P. Lерche, G. Ress, M. Sachs, K. Hesse, V. Hoffling, B. Schlink, F.E. Schnapp, H. Stark, K. Stern, and M.Kh. Yakobe have thoroughly examined the problem of restricting rights as a form of rights protection, as well as the standards for applying such restrictions.

However, despite the existence of these studies, a comprehensive monographic analysis specifically addressing the theoretical and legal issues of restricting human rights during emergencies taking into account public administration reforms, national legislation and law enforcement practices, international legal norms, and the best practices of foreign countries has not yet been conducted.

**The relation of the dissertation's theme to the scientific-research work of higher education institution where it was implemented.** The topic of this dissertation has been developed within the framework of the priority research areas of the Academy of Law Enforcement of the Republic of Uzbekistan.

**The aim of the research** is to develop proposals for improving the legislation of the Republic of Uzbekistan in this area, taking into account the experience of developed countries in the process of ensuring the rights and freedoms of individuals in emergency situations, taking into account the experience of developed countries.

**The objectives of the research** are as follows:

Elucidate the conceptual foundations of human rights and freedoms, including the goals and grounds for their restriction during emergencies, based on the legislation of Uzbekistan, international legal instruments, and foreign laws;

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<sup>1</sup> The scientific works of these and other scholars are listed in the references section of the dissertation.

Analyze the constitutional and legal foundations for the legitimate restriction of rights in Uzbekistan and other countries;

Improve the legal framework for imposing restrictions on human rights by officials with special legal status (e.g., from the Ministry of Internal Affairs, National Guard, Prosecutor's Office, and Judiciary) during states of emergency;

Conduct an in-depth analysis of the concept, mechanisms, and characteristics of human rights protection under emergency situations in accordance with international treaties on human rights;

Examine the specifics of restricting rights in legal regimes implemented in response to real threats of terrorism and extremism, and study relevant foreign experiences;

Define legal concepts such as "special legal regime," "non-recognition," "narrowing," "suspension," "restriction," "state of war," "state of emergency," "public order maintenance during emergencies," "deprivation of rights," and "siege" by analyzing international treaties and the legal frameworks of foreign countries;

Examine the guarantees and distinct constitutional features of non-derogable rights and freedoms in Uzbekistan by analyzing relevant UN and regional (American, European, African) human rights treaties;

Analyze the legal basis for declaring a state of emergency or martial law in Uzbekistan and develop proposals for improving legal provisions;

Study specific features of human rights' restricting during the Coronavirus (COVID-19) pandemic;

Clarify the legal and social nature of lawful restrictions on human rights and freedoms as an element of the special legal regime under Uzbekistan' and foreign legislation as well as international treaties;

Develop recommendations for improving legislative practices concerning the restriction of human rights and freedoms during emergencies in Uzbekistan.

**The research object:** The object of the research is the system of social relations that arises within the legal systems of Uzbekistan and foreign countries during the application and implementation of legal restrictions on human rights and freedoms in emergency situations.

**The subject of the research:** International norms regulating issues related to ensuring human rights during states of emergency, the activities of international organizations in such conditions, as well as the specific features of the implementation of the legal bases for restricting human rights and freedoms in the emergency legislation of the Republic of Uzbekistan and a number of foreign countries.

**The research methods.** The study employs a combination of methods, including systemic, historical-comparative, comparative-legal, sociological surveys, empirical material analysis, and statistical analysis, particularly in exploring international legal mechanisms for ensuring human rights during emergencies.

**The scientific novelty of the study** is as follows:

based on the analysis of foreign and national legislation, as well as scientific doctrine, the author has developed definitions for the concepts of "special legal regime", "derogation", "narrowing", "suspension", "restriction", "state of war or

armed conflict”, “state of emergency”, “maintenance of public order during a state of emergency”, “deprivation of rights”, and “state of siege”;

the concept of “emergency situation” provided in the Constitutional law of the Republic of Uzbekistan on “Emergency Situations” is proposed for an enhanced analysis;

it is internationally-legally justified that human rights can be restricted within the scope necessary for the purpose of protecting the constitutional system, public health, social morality, rights and freedoms of other persons, public safety and public order;

proposals to prohibit or restrict the holding of meetings, rallies, street marches, and demonstrations in emergency situations, as well as to strengthen the protection of extremely important and classified facilities, are based on parts 4 and 7 of Article 12 of the Constitutional law of the Republic of Uzbekistan “On the State of Emergency”;

the powers of the Cabinet of Ministers to temporarily restrict the entry and exit of people and vehicles in areas affected by emergency situations are substantiated;

it is proposed to supplement the provisions prohibiting the dissolution of the Legislative Chamber and Senate of the Oliy Majlis of the Republic of Uzbekistan during the state of emergency;

the provision regarding the alignment of certain legislative acts of the Republic of Uzbekistan with the agreements of the World Trade Organization stipulates that in emergency situations, the use of patented industrial property objects, which consist of means protected by patents, is permitted in cases of natural disasters, catastrophes, epidemics, and other emergencies. After utilizing the patent results, the author must be notified promptly, and the issue of compensating them in a reasonable amount is justified;

the Cabinet of Ministers of the Republic of Uzbekistan has established conditions under which the property of a patent owner may be used without their consent in situations of extreme necessity. These include cases related to ensuring national defense and security, eliminating natural and man-made emergencies, and protecting the life and health of citizens. In such cases, use may occur without prior notification to the patent holder, but with the obligation to provide proportionate compensation.

**The practical outcomes of the research are as follows:**

Practical proposals have been substantiated for improving the legal mechanisms related to the restriction of certain rights in the process of ensuring human rights and freedoms during states of emergency;

It has been justified that aligning the norms concerning the restriction of certain rights and freedoms during emergencies with international legal standards is a practical necessity for the implementation of the new Constitution of Uzbekistan;

Proposals have been put forward for introducing amendments and additions to the existing legislative acts of the Republic of Uzbekistan related to states of emergency;

The analysis of national and foreign practices regarding the restriction of human rights and freedoms during emergencies, the precise and scientifically

grounded definitions of legal concepts in legislation, and the proposals for improving constitutional and legislative mechanisms have been substantiated;

Authorial definitions and core concepts related to emergency situations developed through scientific analysis have been accompanied by specific criteria for their integration into national legislation;

Proposed amendments and additions to the new Constitution and sectoral laws have been substantiated as effective and lawful means of protecting human rights and freedoms during emergencies;

Proposals based on the experiences of foreign countries have been substantiated as contributing to the alignment of Uzbekistan's national legal system with international standards;

Concrete proposals have been developed to address legal gaps and problems encountered in the application of law during states of emergency;

It has been substantiated that improving the legislation on the protection of human rights and freedoms during emergencies will facilitate the introduction of new solutions and mechanisms in the field of human rights protection.

#### **The reliability and empirical basis of the research results:**

The findings are based on norms of international and national law, advanced foreign practices, legal enforcement experience, academic theories, and methodological approaches. The study incorporates over 5,000 empirical data points gathered through surveys of military and law enforcement personnel and social media users, as well as official statistical data. All findings have been properly documented, reviewed, and validated through publication in leading national and international journals. The proposals have been approved by competent authorities and introduced into practice.

#### **The theoretical and practical significance of the research.**

The scientific and practical significance of the core propositions of the dissertation lies in their potential to strengthen the legal framework for ensuring human rights and freedoms during states of emergency and to contribute to the development of international humanitarian law in regions where special legal regimes are applied.

The proposals presented in this research can be utilized in the teaching of several legal disciplines in higher education institutions, such as “Basics of State and Law”, “Human Rights”, “Constitutional Law”, “Criminal Law” and “Administrative Law”. They are also relevant for the development of specialized courses and teaching manuals, including “Constitutional Law of Foreign Countries”, “Theory of State and Law” and “Human Rights.”

**Implementation of research results.** The scientific results of the research are reflected in the following applications:

In the context of emergency situations, the proposals presented regarding the restriction of human rights and freedoms are based on the revised Article 21 of the Constitution of the Republic of Uzbekistan, which states: “The rights and freedoms of individuals may only be restricted in accordance with the law and only to the extent necessary to protect the constitutional order, public health, social morality,

the rights and freedoms of others, as well as to ensure public safety and order” (*Act of implementation of the Senate of the Oliy Majlis of the Republic of Uzbekistan No. 19 dated July 26, 2023*). The adoption of this proposal has been reinforced in our new Constitution by a constitutional provision stating that only in cases of emergency may human rights be partially restricted for the purposes of preserving the constitutional system, public health, and public safety and public order;

Proposals to prohibit or restrict the holding of meetings, rallies, street marches, demonstrations in emergency situations, and to strengthen the protection of extremely important and classified objects are based on parts 4 and 7 of Article 12 of the Constitutional law of the Republic of Uzbekistan “On the State of Emergency” (*Act of implementation of the Senate of the Oliy Majlis of the Republic of Uzbekistan No. 20 dated July 26, 2023*). Acceptance of these proposals has served to increase the effectiveness of the application of this law;

The proposal to expand the powers of the Cabinet of Ministers regarding the temporary restriction of the entry and exit of people and vehicles in areas affected by natural and man-made emergencies is substantiated by Article 8 of the Law of the Republic of Uzbekistan on “Protection of the Population and Territories from Natural and Technogenic Emergencies”. This proposal is intended to ensure that the legislative body takes it into account in order to safeguard the lives, health, and property of citizens during emergency situations (*Act of implementation of the Senate of the Oliy Majlis of the Republic of Uzbekistan No. 21 dated July 26, 2023*);

In connection with the adoption of the renewed Constitution of the Republic of Uzbekistan, amendments have been made to certain legislative acts of the Republic of Uzbekistan, particularly regarding new norms that prohibit the dissolution of the Legislative Chamber and the Senate of the Oliy Majlis during periods when a state of emergency is declared. Furthermore, these amendments relate to the powers of the Cabinet of Ministers in ensuring national defense and security, addressing natural and man-made emergencies, and protecting the lives and health of citizens in situations where necessity arises. In such cases, it is proposed that the property of the patent holder may be used without their consent, provided that they are informed about this and compensated in an appropriate amount. The incorporation of these proposals aims to ensure uniform application of the norms of our newly revised Constitution (*Act of implementation of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan No. 02/6-09-41 dated February 26, 2024*).

Based on the proposals and recommendations presented in the dissertation research, methodological recommendations for teaching the science of “Human Rights” and a program for teaching the science of “Human Rights” in educational institutions have been developed. It is also used in the educational process of the University of Public Security of the Republic of Uzbekistan, the Academy of Law Enforcement of the Republic of Uzbekistan and the Academy of the Ministry of Emergency Situations of the Republic of Uzbekistan (*Acts of implementation of the University of Public Safety of the Republic of Uzbekistan No. 346 dated 07.02.2025, the Law Enforcement Academy dated March 3, 2025, and the Academy of Emergency Situations No. 4b/2-880 dated 19.03.2024*).

**The approbation of the research results.** The main results of the research, scientific conclusions have been discussed at international and republican scientific-practical training seminars, conferences and round-table discussions, including 7 international and 4 republican scientific-practical conferences.

**The publication of the research results.** A total of 33 scientific works have been published on the topic of the dissertation, including 14 articles in national journals registered by the Higher Attestation Commission of the Republic of Uzbekistan, 2 articles in international journals, 14 papers and abstracts in conference proceedings, as well as 1 monograph.

**The structure and volume of the dissertation.** The dissertation consists of an introduction, five chapters, a conclusion, a list of references, and appendices. The total length of the dissertation is 258 pages.

## THE MAIN CONTENT OF THE DISSERTATION

The **Introduction** of the dissertation outlines the relevance and necessity of the research topic, its alignment with the key priority areas of national scientific and technological development, a review of international scientific studies on the topic, the degree of academic investigation of the issue, the topic's relevance to the research agenda of the higher education institution where the dissertation is being completed, as well as the theoretical and empirical foundations of the study, its goals and objectives, object and subject, research methods, scientific novelty, practical outcomes, the scientific and practical significance of the findings, their implementation in practice, approval, publication record, and the structure and volume of the dissertation.

The first chapter of the dissertation is entitled “**Scientific and theoretical foundations of the restriction of human rights and freedoms**”. Its first paragraph, devoted to “*The essence and classification of legal restrictions on human rights and freedoms*”, analyzes human rights and freedoms from the point of view of philosophy. The researcher emphasizes that the issue of applying legal restrictions uniformly regarding personal rights and freedoms in the field of legal sciences remains unresolved to this day, and that this creates difficulties in theoretical understanding during the legislative process and in the practice of law enforcement.

The researcher, agreeing with A.V. Malko, states that the concepts of restriction and prohibition are also close in content and concludes that any prohibition is a restriction, but not every restriction in the field of law is a prohibition. In this chapter of the dissertation, the opinions and views of a number of scientists on the issues of limiting human rights and freedoms are analyzed, revealed the essence of the concept of limiting human rights and freedoms.

Author's definition of legal restriction of human rights and freedoms is elaborated as a method of legal regulation. Also, the dissertation candidate proposes to divide human rights and freedoms into the types depending on the conditions (legal regime), goals, grounds, subjects, the content of these restrictions and the procedure for their application.

In the paragraph titled “*Constitutional and legal foundations for the legal restriction of human rights and freedoms in Uzbekistan and foreign countries*”, the researcher acknowledges that there is no unified approach to analyzing the grounds for restricting certain rights in the context of ensuring human rights and freedoms. The legal literature discusses the normative (formal) and factual (material) foundations for restricting individual rights and freedoms, noting that there is a distinction between personal rights and freedoms and collective rights and freedoms when applying these restrictions.

Furthermore, it highlights that in recent years, developed countries have placed greater emphasis on collective (public) rights and freedoms in their constitutional development, a trend that is also reflected in the newly revised Constitution of the Republic of Uzbekistan. Also, in a number of new norms of our constitution, the term “restriction” is most often used in relation to human rights and freedoms (*Article 21 – the right to free development of the individual, Article 25 – the right to life, Article 26 – freedom from torture, Article 27 – the right to privacy, Article 28 – the presumption of innocence, Article 29 – the right to qualified legal assistance, Article 31 – the inviolability of private life, Article 32 – the right to free movement, Article 33 – freedom of thought, speech, and convictions, Article 37 – access to public service, Article 38 – the right to hold meetings and demonstrations, Article 67 – monopoly activities, and other articles*).

Recognizing that there is no single approach to the concepts of public security and public order, the dissertation gives examples of legal scholars from foreign countries such as the USA, England and Germany.

In the third paragraph, dedicated to “*Legal restrictions on the rights and freedoms of a person with law-abiding behavior*”, the author discussed with foreign researchers from the United States, Great Britain, Germany, and France the right to life, which cannot be limited under any circumstances, and expressed their mutually exclusive points of view, stating that the right to life is an inalienable right, supporting the point of view of professor M.Kh. Rustambayev on this matter.

The researcher also addresses another type of restriction on human rights and freedoms concerning religious freedom, noting that in countries such as the USA, the UK, France, and Germany, religion is separated from the state. However, in almost all Western countries, there are prohibitions on wearing religious attire in public places, displaying religious symbols, and attending educational institutions in such clothing. Additionally, there are restrictions on receiving religious education in educational institutions.

The researcher compares the legislation and practices of Western countries regarding religious freedom with the existing legal norms and practices in the Republic of Uzbekistan. It is pointed out that the national legislation does not establish regulations on the use of religious symbols or on the conduct of individuals in religious attire within state and educational institutions. This omission is highlighted as a serious shortcoming of the law, leading to the conclusion that it would be appropriate to introduce amendments and additions to this law.

The second chapter of the dissertation is entitled “**The system of legal restrictions on human rights and freedoms in the legislation of Uzbekistan and**

**foreign countries**". The paragraph of this chapter entitled "*Legal restrictions on personal rights and freedoms for persons with special legal status*" states that, as a rule, such restrictions are intended for law enforcement officers, military personnel and other civil servants, and these restrictions include: freedom of movement, freedom of conscience and religion, the right to protection of honor and dignity, and the right to private life of persons with special professional status.

In this matter, it is noted that in the laws of many countries, such as Germany, the USA, and the Russian Federation, the right to leave the country is restricted for a period not exceeding five years or for the duration specified in the employment contract. In the new edition of the Law on State Secrets of the Republic of Uzbekistan, Article 30, Part 3 states that for carriers of confidential information marked "secret", the restriction on leaving the territory of the Republic of Uzbekistan is set for up to one year. However, it is proposed to reconsider the application of the restrictions outlined in Article 30 of this law concerning employees and officials who do not directly work with information classified as state secrets or service secrets, and to remove such restrictions for them. Therefore, it is suggested to introduce relevant amendments and additions to this law.

Noting that the most severe restrictions on freedom of religious expression are imposed on law enforcement officers and military personnel, and that such restrictions are justified by the primacy of state interests, the dissertation analyzes the practice of the above-mentioned countries in this regard, recognizing that civil servants are prohibited from wearing religious clothing and symbols during their official duties, and that restrictions are imposed on their ability to perform religious services.

In this regard, the researcher notes that the laws "On Amendments and Additions to Certain Legislative Acts of the Republic of Uzbekistan Aimed at Enhancing the Effectiveness of the Armed Forces of the Republic of Uzbekistan and Law Enforcement Agencies"<sup>1</sup> and "On Conflict of Interests"<sup>2</sup>, which have enacted in 2024, impose various restrictions on law enforcement agencies and military personnel in the process of exercising their official duties. These restrictions include receiving various rewards and gifts, engaging in entrepreneurial activities, and membership in political parties. The researcher emphasizes that clearly stating the exceptional circumstances mentioned in the law is of significant importance for the proper application of the law and has presented their proposals for the improvement of these laws.

In the paragraph of this chapter entitled "*Features of the application of restrictions on human rights and freedoms by the bodies of internal affairs and the National guard in the conditions of a special legal regime*", the doctoral candidate approved the definitions given to the special legal regimes by A.V. Malko and

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<sup>1</sup> Law of the Republic of Uzbekistan No. LRU-1008 dated November 29, 2024, "On amendments and additions to certain legislative acts of the Republic of Uzbekistan aimed at enhancing the efficiency of the Armed Forces of the Republic of Uzbekistan and law enforcement agencies" // <https://lex.uz/uz/docs/7242678>

<sup>2</sup> Law of the Republic of Uzbekistan No. LRU-931 dated June 5, 2024, "On conflict of interests" // <https://lex.uz/uz/docs/6968729>

V.Yu. Ukhov, fully covering the nature and essence of these regimes, and stated that he agrees with the understanding given to this definition.

According to the researcher, it is advisable to provisions regarding the partial or complete restriction of internet access in situations related to the active implementation of modern information technologies in citizens' daily lives. These amendments should include clear regulatory guidelines for the enforcement of such restrictions by the internal affairs bodies and the National Guard during emergency situations.

Furthermore, the researcher justified the need to amend Article 5 of the Law of the Republic of Uzbekistan “On the Procedure for Serving Administrative Detention” to regulate the duration of administrative detention in holding facilities by internal affairs agencies under emergency conditions. This amendment should include a new second part stipulating that the extension of the administrative detention period is only permissible based on a relevant court decision, and a draft law has been developed accordingly.

The third the paragraph of the second chapter is devoted to “*Authorities of the court and prosecutor's office to limit human rights and freedoms under the conditions of a special legal regime*”, and it also covers the role of the prosecutor and the court in emergency situations. According to the dissertation author, prosecutors must be aware of situations and conditions that impose restrictive measures, particularly those affecting fundamental rights and freedoms. They should recognize the need to prevent abuse in the application of such restrictions and to avoid any limitations on rights that cannot be restricted.

The author concludes that even though curfews, movement restrictions, and other limitations may be implemented, judges, court officials, lawyers, and prosecutors should continue their activities without hindrance. Furthermore, it is essential that representatives of the judiciary and relevant specialists are included in a list of professions that are exempt from such measures, ensuring that their ability to perform their work and duties is not restricted.

The third chapter of the dissertation titled “**International legal aspects of ensuring human rights in emergency situations**”, begins with the first paragraph named “*The Concept, essence, and characteristics of the institute of emergency situations*”. It notes the existence of various approaches to the implementation of such legal regimes. Several legal scholars (A.V. Melekhin, V.V. Lastochkin, I.L. Dyachenko) are cited for providing inconsistent definitions.

The author analyzes the views of these researchers on the legal regime, adapting them to the existing local conditions in the Republic of Uzbekistan while providing their own definition. The researcher says that this legal institution should have only a constitutional character in modern conditions.

In the practice of many countries of the world, the concept of “state of emergency” is named differently. For instance, the term “*state of emergency*” is commonly used in the legislation of countries such as Algeria, Angola, Bulgaria, Hungary, Zimbabwe, India, Jordan, Ireland, Egypt, Morocco, Mali, Nicaragua, Poland, Romania, the United States, France, and others. In contrast, the legislation

of the United Kingdom, Vietnam, the Netherlands, the Republic of Korea, the Philippines, and similar jurisdictions refers to this concept as “*martial law*”.

In Belgium and Italy, it is termed a “*state of war*”, while in Germany it is known as a “*state of danger*”, in Spain as a “*state of threat*”, and in Gabon as a “*state of vigilance*”. These variations underscore the diversity of terminology used to describe emergency situations across different legal systems. In light of this, the dissertation author proposes an enhanced definition of the legal institution of a state of emergency that aligns with the requirements of the new Constitution of the Republic of Uzbekistan.

The second paragraph of this chapter is devoted to the issues of “*Restricting human rights and freedoms in the fight against terrorism and ensuring public safety in emergency situations*”. It sets out the experience of foreign countries in combating terrorism and extremism and the requirements of international standards on combating terrorism and extremism in international legal documents, in combination with national legislation. It is justified that restrictions introduced to ensure human rights and freedoms in situations where there is a real threat of terrorism must comply with the generally recognized norms of international law, and it is recommended to bring national legislation into line with international standards.

The third paragraph of this chapter is devoted to “*Foreign experience in introducing states of emergency*”, in which the dissertation author presents information about the types of emergency regimes in Western countries such as the USA, Great Britain, and France, as well as in Asian countries such as China, India, and Japan. In this regard, the grounds for introducing the emergency regime differ from each other. For example, in France, the decision of the President of the Republic to take emergency measures must be approved at a meeting of the parliament, in the USA, the basis for introducing an emergency regime is the participation of all three levels of government - the federation, states and local authorities.

According to the dissertation author, the institute of states of emergency is briefly outlined in the International Covenant on Civil and Political Rights of 1966. They emphasize the necessity to refer to other documents in order to fully understand their content. This situation requires seeking the purpose and essence of the institute of states of emergency in various international legal documents, and it highlights the need for diverse interpretations when studying this institute.

The fourth chapter of the dissertation is entitled “**Specific features of providing for emergency situations in international legal and regional documents**”. Its first paragraph is devoted to the “*Features of the interpretation of emergency situations by international human rights bodies*”, the researcher analyzes how the concept of “emergency situations that threaten the life of the nation or occur during wartime” is expressed in various international legal documents using different wording.

It is noted that while this concept is articulated in Article 4 of the International Covenant on Civil and Political Rights with phrases such as “when the life of the

nation is threatened and this situation is officially proclaimed”<sup>1</sup>, other documents such as the Inter-American Convention, the European Convention on Human Rights, and the European Charter express these terms differently.

The author emphasizes that the provisions of the International Covenant take precedence. In this regard, the researcher argues that when states declare emergency situations within their territories, it is appropriate to primarily adhere to the requirements outlined in Article 4 of the International Covenant on Civil and Political Rights.

In this context, the researcher discusses the monitoring conducted by international bodies regarding Article 4, paragraph 1 of the International Covenant on Civil and Political Rights, Article 27 of the American Convention on Human Rights, and Article 15 of the European Convention on Human Rights. The dissertation author argues that the restrictions imposed by the Inter-American Court of Human Rights and Article 15 of the European Convention on Human Rights require participating states to always respect the principles of legality and the rule of law.

The following paragraph of this chapter is titled “*The Characteristics of rights and obligations that cannot be derogated in the field of human rights*”. The researcher expresses the opinion that one of the non-derogable human rights is the right to freedom from laws that have retroactive effect, as well as the principle of *ne bis in idem*, which is guaranteed by the International Covenant, the American Convention, and the European Convention. While it may seem appropriate to adopt laws with retroactive effect to combat emergencies, especially against particularly serious crimes, the researcher emphasizes that this is strictly prohibited by international human rights documents.

This includes the necessity to protect against any consequences of specific actions, including arbitrary prosecution and the imposition of relevant sanctions, even in states of emergency. In this regard, the researcher agrees with professor M.Kh. Rustambayev's views on the retroactive effect of criminal law, which is firmly established in parts 2 and 3 of Article 13 of the Criminal Code. He emphasizes that the retroactive effect of laws, which may decriminalize actions or mitigate penalties, or improve an individual's situation in another way, is a principle that is fully compliant with the requirements of Article 7, paragraph of the European Convention.

The first paragraph of Chapter Five, titled “**Characteristics of Implementing a Special Legal Regime in the Republic of Uzbekistan**”, is named “*The Practice of implementing a special legal regime in Uzbekistan*”. In this paragraph, the author states that prior to achieving state independence, the issue of implementing a special legal regime was carried out solely by the former Soviet Union's central authorities. Additionally, the practice of declaring a state of emergency in certain regions during Uzbekistan's independence period has been legally analyzed.

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<sup>1</sup> International Covenant on Civil and Political Rights. Adopted 16 December 1966 by General Assembly resolution 2200A (XXI) // <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

In the paragraph titled “*Certain aspects of ensuring human and citizen rights and freedoms in the process of implementing a state of emergency and martial law in the Republic of Uzbekistan*”, the dissertation author states that Article 109 of the newly revised Constitution of the Republic of Uzbekistan delineates the constitutional powers of the President. It is noted that paragraphs 18 and 19 of Article 109 outline the authority of the head of state to declare a “state of war” or a “state of emergency”.

According to the dissertation, the newly amended Constitution has expanded the President's authority to declare a state of emergency. In this regard, the researcher believes that the provision in paragraph 18 of Article 109 of the Constitution, which states that “in the event of an attack on the Republic of Uzbekistan or when the need arises to fulfill the obligations under a treaty established for mutual defense, a state of war or general or partial mobilization may be declared”<sup>1</sup>, would have found its expression in the Constitutional law of the Republic of Uzbekistan “On State of Emergency” if the basic concepts had been clarified in Article 3 of that law, thereby addressing this gap in legislation.

In the paragraph titled “*Some features of restricting human rights in the context of the coronavirus (COVID-19) pandemic*”, the author of the dissertation states that the global COVID-19 pandemic has posed a long-term threat to human rights. It is noted that the spread of the pandemic worldwide has brought several issues related to human rights to the forefront, particularly regarding the temporary restrictions on individuals' rights to freedom of movement, assembly, and holding protests and demonstrations.

Consequently, a relevant decree was adopted in Uzbekistan, which implemented quarantine measures among the population. This included restrictions on individuals leaving their homes, requirements for wearing personal protective equipment (masks) when going outside, maintaining social distance, and limitations on public events and celebrations.

The researcher positively assessed the participation of the Republic of Uzbekistan in the adoption of the UN resolution “Global solidarity to fight the coronavirus disease 2019 (COVID-19)”<sup>2</sup>, noting that in the event of a COVID-19 emergency, such restrictions, if legally introduced, would be extremely necessary and scientifically justified.

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<sup>1</sup> The Constitution of the Republic of Uzbekistan // <https://lex.uz/docs/6451070>

<sup>2</sup> Resolution adopted by the General Assembly on 2 April 2020 74/270. Global solidarity to fight the coronavirus disease 2019 (COVID-19) // UN Document A/RES/74/270 /URL: <https://docs.un.org/en/A/RES/74/270>

## CONCLUSION

Based on the research conducted on the temporary restriction of certain rights only in cases provided for by law during the protection of human rights in emergency situations, the following scientific conclusions, proposals, and recommendations have been developed:

### I. Scientific and theoretical conclusions

1. According to the research findings, the dissertation proposes the concept of legally restricting rights and freedoms in emergency situations as a method of mandatory legal regulation. This concept involves establishing the boundaries (reducing the scope) of actions permitted by law for law-abiding citizens based on the Constitution and laws. It aims to protect the value of individual freedom and public interests or to safeguard public interests by temporarily limiting the legal status of individuals who have committed offenses through the restriction of their rights and freedoms.

2. Based on the analysis of foreign and national legislation as well as legal literature, the following authorial definitions of the concepts “*special legal regime*”, “*derogation*”, “*narrowing*”, “*suspension*”, “*restriction*”, “*state of war or armed conflict*”, “*state of emergency*”, “*maintenance of public order during a state of emergency*”, “*deprivation of rights*” and “*state of siege*” were developed in line with modern approaches, and the necessity of incorporating these definitions into national legislation was substantiated.

*Special legal regime* refers to the regimes that are implemented by the President of the Republic of Uzbekistan in the territory of Uzbekistan or its parts in the event of external and internal threats to the sovereignty and territorial integrity of the Republic of Uzbekistan, its constitutional order, and the rights and freedoms of its citizens. This concept encompasses not only the activities of state authorities and local self-governing bodies but also the special regime applicable to other subjects of legal relations, including enterprises, institutions, organizations, as well as individuals and legal entities;

*Derogation* is the lack of legal recognition of certain rights (for example, restrictions on certain political rights for foreigners) or their disregard (for example, a state's failure to recognize the acquisition of citizenship of another state for its citizen);

*Narrowing* is a reduction in the content and scope of the right (freedom);

*Suspension* is the temporary restriction of an individual's rights until a final decision regarding deprivation or restoration of those rights is made (for example, detaining a suspect in a crime and limiting personal freedom during the period of detention);

*Restriction* refers to the process of minimizing (reducing) the boundaries of permitted actions for a law-abiding individual, based on the Constitution and other laws, with the aim of protecting the value of personal rights and freedoms as well as public interests. This process involves either granting permission or depriving legal

rights, characterized by the enforcement of the status of an individual who has committed an offense, as determined by the State;

*State of war or armed conflict* refers to a specific type of emergency situation recognized in international legal diplomatic procedures and national legislation. It pertains to a scenario in which one state officially notifies another state or armed criminal groups about the cessation of peace and the transition to a state of war, in accordance with established procedures;

*A state of emergency* is an interdepartmental legal institution that establishes a special legal regime for the activities of state authorities and management bodies, introduced by the President of the Republic of Uzbekistan throughout the entire territory of our country or in certain areas when there are real threats to the constitutional system of the Republic of Uzbekistan. It aims to quickly normalize the situation, restore legality and order, eliminate threats to citizens' safety and provide them with necessary assistance, as well as protect citizens' safety or the constitutional order of the republic;

*Maintaining public order in emergency situations* is a system of coordinated social and legal relations between the state and society, ensured by the activities of law enforcement agencies, primarily the internal affairs bodies, national guard, prosecutor's office, state security service, ministry of emergency situations, and other civil organizations. This system addresses the emergence and development of situations among people in public places, ensuring compliance with legal provisions related to personal and public safety, protecting individuals' normal interactions, dignity, value, life, and health;

*Deprivation of rights* refers to the annulment of certain rights. For example, depriving foreigners of the right to remain in Uzbekistan by expelling them from the country, or depriving an individual of a specific right;

*The state of siege* is a situation of significant strategic importance, in which an area, city, or military facility is surrounded by the enemy, restricting or halting the entry of food, medicine, water, weapons, auxiliary forces, and other resources. This tactic is employed with the aim of forcing the enemy to surrender or weakening their forces.

3. Although the institution of a state of emergency is not always regulated in detail in the Constitution of a particular state, the regime of a state of emergency should be determined by the Constitution, just as the usual, ordinary regime of the exercise of state power is determined by the Constitution. Also, a special legal regime should be introduced only in situations that threaten the sovereignty, security, and territorial integrity of the state, disrupt the normal life of people, industrial, domestic, economic, and other types of activity.

4. The issue of applying legal restrictions uniformly regarding the rights and freedoms of individuals in legal practice remains unresolved to this day. There is no unified approach in defining the essence, distinctive features, and characteristics of limiting rights and freedoms. This has led to difficulties in theoretical understanding during the legislative process and in the practice of law enforcement, as evidenced by the experiences of foreign countries.

5. Currently, the significance of public (collective and state) interests in justifying the limitations of rights and freedoms plays a crucial role. This has led to an increasing emphasis on collective rights in the constitutional development of countries around the world. In this context, the term "limitation" is frequently applied to human and civil rights and freedoms in several new articles of the Constitution of Uzbekistan. This is evidenced by its use in the following articles of the second section titled "Fundamental Rights, Freedoms, and Duties of Individuals and Citizens" of the Constitution: Articles 21, 27, 28, 29, 31, 32, 33, 37, among others.

6. It has been justified that when a state of emergency is introduced in the entire territory of the Republic of Uzbekistan or in certain regions, the rights and freedoms stipulated in Articles 21 (*the right to free development of a person*), 25 (*the right to life*), 26 (*freedom of torture*), 27 (*the right to inviolability*), 28 (*the presumption of innocence*), 29 (*the right to qualified legal assistance*), 31 (*the inviolability of private life*), 32 (*freedom of movement*), 33 (*freedom of thought, speech, and convictions*), 37 (*access to public service*), 38 (*the right to hold meetings and demonstrations*), 67 (*monopoly activities*) of the Constitution of the Republic of Uzbekistan shall not be restricted.

7. Due to the entry of the coronavirus infection into our republic, the national legislative norms aimed at combating it have been analyzed. Opinions and reflections on the restrictions imposed during the COVID-19 period have been expressed. An assessment has been made of the scope and results of the measures implemented in the Republic of Uzbekistan to mitigate the negative consequences of the coronavirus infection.

## **II. Proposals and recommendations on improving the legal framework of emergency legislation**

1. It is proposed that the following version of Part 3 of Article 21 of the new Constitution of the Republic of Uzbekistan be introduced to reflect the recommendations concerning the restriction of human rights and freedoms during states of emergency: "*The human rights and freedoms may be limited only in accordance with the law, and only to the extent necessary to protect the constitutional order, public health, public morality, the rights and freedoms of other persons, to ensure public safety and public order*".

2. It is recommended to amend Article 8 of the Law of the Republic of Uzbekistan "On the Protection of the Population and Territories from Natural and Technogenic Emergencies" to include a provision authorizing the Cabinet of Ministers to temporarily restrict the movement of people and vehicles in and out of areas affected by emergencies.

3. In connection with the adoption of the new version of the Constitution, it is proposed to introduce amendments and additions to certain legislative acts aimed at improving the activities of the Oliy Majlis of the Republic of Uzbekistan, specifically:

- To revise Part 3 of Article 29 of the Constitutional law “On the Senate of the Oliy Majlis of the Republic of Uzbekistan” as follows: “The Senate may not be dissolved during a state of emergency”;
- To revise Part 3 of Article 34 of the Constitutional law “On the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan” to state: “The Legislative Chamber may not be dissolved during a state of emergency”.

4. In order to align Uzbekistan's national legislation with the agreements of the World Trade Organization, it is proposed to introduce the following amendments to the Law “On Inventions, Utility Models and Industrial Designs”:

- Revise the fourth paragraph of Article 12 to state: “*Means incorporating industrial property objects protected by patents may be used during natural disasters, catastrophes, epidemics, and other emergencies, provided that the patent holder is notified as soon as possible and subsequently compensated in proportionate amount*”;
- Revise Parts 4 and 5 of Article 32 to read: “*In cases of urgent necessity related to national defense and security, elimination of natural and technogenic emergencies, and protection of the life and health of citizens, the Cabinet of Ministers may authorize the use of an industrial property object without the patent holder's consent, provided the holder is notified promptly and fairly compensated thereafter*”.

5. It is proposed to supplement Part 3 of Article 30 of the new edition of the Law “On State Secrets” with the following provision: “*Restrictions related to classified information marked 'secret' should be lifted for employees and civil servants who do not directly work with state or service secrets*”.

6. It is recommended to add a new paragraph 6 to Article 7 of the Law “On Freedom of Conscience and Religious Organizations” (Law No. ORQ-699, adopted on July 5, 2021): “*Civil servants shall be restricted from wearing religious attire, using religious symbols, or engaging in worship during the performance of official duties*”.

7. To prevent abuse of official powers by civil servants and public officials during their service, it is proposed to revise Clause 4 of Article 8 of the Law “On Conflict of Interest” as follows: “*Failure by a civil servant to declare personal property, as required by law, shall entail liability in accordance with applicable legal acts*”.

8. In order to regulate the serving of administrative detention during emergencies, it is proposed to amend Article 5 of the Law “On the Procedure for Serving Administrative Detention” to include the following new paragraph: “*The extension of administrative detention is permissible only on the basis of a relevant court decision*” (A draft law on this proposal will be attached to the dissertation).

9. Based on Part 3 of Article 33 of the new Constitution of the Republic of Uzbekistan and considering the active integration of modern information technologies into citizens' daily lives, it is deemed appropriate to amend the

Constitutional law “On States of Emergency” to provide for the possibility of partially or fully restricting Internet access in territories under emergency regimes.

10. It is proposed to align the procedure for declaring a state of war, as defined in Clause 18 of Article 109 of the new Constitution, with the requirements of the Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War (1949), by revising Article 3 of the Constitutional law “On State of Emergency” to define “state of war” or “armed conflict” as follows: *“State of war’ or ‘armed conflict’ shall be regarded as a type of state of emergency, referring to the officially recognized legal condition in international legal and diplomatic practice and national legislation, whereby one state notifies another state or armed criminal groups about the cessation of peace and the transition to a state of war”.*

11. It is proposed to amend the Law “On Public Procurement” (adopted on April 22, 2021) by introducing a provision that relieves business entities from liability for failing to fulfill contractual obligations in areas where restrictions have been imposed due to the declaration of a state of emergency.

### **III. Recommendations aimed at improving the effectiveness of the process of limiting human rights and freedoms in emergency situations**

1. Based on the conditions (legal regime), purposes, grounds, subjects, content of these restrictions, and the procedure for their application, human and citizens’ rights and freedoms can be classified into the following types:

*First*, restrictions established in international legal documents and those specified in national legislation;

*Second*, restrictions on rights and freedoms that are inherent elements of the customary legal regime;

*Third*, restrictions applicable in emergency situations, including:

a) temporary limitations on the rights and freedoms of individuals in accordance with the law;

b) restrictions proposed in response to an individual's commission of an unlawful act.

2. A draft resolution of the Plenary Session of the Supreme Court of the Republic of Uzbekistan regarding the “*Judicial Practice on Ensuring Human Rights and Freedoms during Emergency Situations*” has been developed for the general jurisdiction courts. This draft proposes the introduction of procedural rules for reviewing cases related to the restriction of human rights and freedoms in judicial practice.

3. During the state of emergency, even under conditions such as curfews and restrictions on movement, representatives of the judiciary and relevant experts recommended that certain professions listed among exempted occupations should retain their full ability to perform their professional duties without interference.

4. Based on the results of the research, methodological recommendations and a curriculum for teaching the subject “Human Rights” in educational institutions have been developed (*to be included as an annex to the dissertation*).

Furthermore, it is proposed to introduce a special training course titled “Ensuring Human Rights During States of Emergency” into the educational programs of the University of Public Safety of the Republic of Uzbekistan, the Academy of Law Enforcement of the Republic of Uzbekistan, and the Academy of the Ministry of Emergency Situations of the Republic of Uzbekistan.

**НАУЧНЫЙ СОВЕТ DSc.39/30.11.2020. Yu/S. 128.01 ПО  
ПРИСУЖДЕНИЮ УЧЕНЫХ СТЕПЕНЕЙ ПРИ НАЦИОНАЛЬНОМ  
ЦЕНТРЕ РЕСПУБЛИКИ УЗБЕКИСТАН ПО ПРАВАМ ЧЕЛОВЕКА**

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**НАЦИОНАЛЬНЫЙ ЦЕНТР РЕСПУБЛИКИ УЗБЕКИСТАН  
ПО ПРАВАМ ЧЕЛОВЕКА**

**АЛИМОВ ГАЙБУЛЛА АЛИМОВИЧ**

**ПРАВОВЫЕ ОСНОВЫ ОБЕСПЕЧЕНИЯ ПРАВ  
ЧЕЛОВЕКА В УСЛОВИЯХ ЧРЕЗВЫЧАЙНЫХ СИТУАЦИЙ:  
МЕЖДУНАРОДНЫЙ И НАЦИОНАЛЬНЫЙ ОПЫТ**

12.00.13 – Права человека

**АВТОРЕФЕРАТ**  
докторской (DSc) диссертации по юридическим наукам

**Ташкент – 2025**

Тема диссертации доктора наук (DSc) зарегистрирована Высшей аттестационной комиссией при Министерстве высшего образования, науки и инноваций Республики Узбекистан за № В2023.3.DSc/Y262.

Диссертация выполнена в Правоохранительной академии Республики Узбекистан.

Автореферат диссертации на трех языках (узбекский, английский, русский (резюме)) размещен на веб-сайте Научного совета (<https://www.nhrc.uz>) и Информационно-образовательном портале «ZiyoNET» ([www.ziyounet.uz](http://www.ziyounet.uz)).

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квалификации юридических кадров при  
Министерстве юстиции Республики  
Узбекистан**

Защита диссертации состоится 13 июня 2025 года, в 15.00 часов на заседании Научного совета DSc. 39/30.11.2020. Yu/S. 128.01 по присуждению ученых степеней при Национальном центре Республики Узбекистан по правам человека (Адрес: 100029, г. Ташкент, ул. Ислама Каримова, 15. Тел.: (998 71) 239-40-23; E-mail: [info@nhrc.uz](mailto:info@nhrc.uz)).

С диссертацией можно ознакомиться в Информационно-ресурсном центре при Национальном центре Республики Узбекистан по правам человека (зарегистрирована за № 8). (Адрес: 100029, г. Ташкент, ул. Ислама Каримова, 15. Тел.: (998 71) 239-40-23).

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## ВВЕДЕНИЕ (аннотация докторской диссертации (DSc))

**Целью исследования** является анализ вопросов обеспечения прав и свобод человека в условиях чрезвычайных ситуаций, а также разработка предложений по совершенствованию законодательства Республики Узбекистан в данной сфере с учётом опыта развитых стран.

**Объектом исследования** выступают общественные отношения, возникающие в процессе обеспечения прав и свобод человека в условиях чрезвычайного положения в правовой системе Республики Узбекистан и зарубежных стран, а также применения и введения правовых ограничений.

**Научная новизна исследования** заключается в следующих положениях: на основе анализа зарубежного и национального законодательства, а также научной доктрины разработаны авторские определения понятий: «военное положение или вооруженный конфликт», «лишение прав», «ограничение», «осадное положение», «особый правовой режим», «приостановление», «поддержание общественного порядка в условиях чрезвычайной ситуации», «непризнание», «сужение», «чрезвычайная ситуация»;

предложено усовершенствованное определение понятия «чрезвычайное положение», закреплённого в Конституционном законе Республики Узбекистан «О чрезвычайном положении»;

обосновано с международно-правовой точки зрения, что права человека могут быть ограничены в пределах, необходимых для обеспечения конституционного строя, здоровья населения, общественной нравственности, прав и свобод других лиц, обеспечения общественной безопасности и общественного порядка;

аргументированы предложения, касающиеся частей 4 и 7 статьи 12 Конституционного закона Республики Узбекистан «О чрезвычайном положении» в части запрета или ограничения проведения собраний, митингов, шествий, демонстраций в условиях чрезвычайного положения, а также об усилении охраны особо важных и категорированных объектов;

обоснованы полномочия Кабинета Министров по временному ограничению въезда-выезда людей и транспортных средств в зоны чрезвычайных ситуаций;

предложено дополнить законодательство нормой, запрещающей роспуск Законодательной палаты и Сената Олий Мажлиса Республики Узбекистан в период действия чрезвычайного положения;

обосновано положение о необходимости приведения отдельных законодательных актов Республики Узбекистан в соответствие с соглашениями Всемирной торговой организации, касающимися использования запатентованных изобретений в чрезвычайных ситуациях, стихийных бедствиях, катастрофах, эпидемиях и других кризисных условиях, с последующим уведомлением в короткий срок правообладателя и выплатой адекватной компенсации;

обосновано положение, согласно которому Кабинет Министров Республики Узбекистан вправе использовать имущество патентообладателя без его согласия в экстренных ситуациях в целях обороны, ликвидации последствий чрезвычайной ситуации природного и техногенного характера, защиты жизни и здоровья граждан, с последующим адекватным возмещением компенсации и уведомления автора патента.

### **Научно-практическая обоснованность результатов исследований.**

Научно-практическая обоснованность основных положений диссертации заключается в укреплении правовой основы обеспечения прав и свобод человека в условиях чрезвычайных ситуаций, а также в содействии дальнейшему развитию применения норм международного гуманитарного права на территориях, где введен особый правовой режим.

Положения, изложенные в диссертационной работе, могут быть использованы при преподавании ряда юридических дисциплин в образовательных учреждениях, таких как: “Основы государства и права”, “Права человека”, “Конституционное право”, “Уголовное право”, “Административное право”, а также “Конституционное право зарубежных стран”, “Теория государства и права” и других специализированных курсов.

**Внедрение результатов исследования.** Научные результаты, полученные в ходе исследования, нашли своё выражение в следующем:

предложения по ограничению прав и свобод человека в условиях чрезвычайных ситуаций были использованы в статье 21 Конституции Республики Узбекистан в новой редакции, в которой закреплено: «Права и свободы человека могут быть ограничены только в соответствии с законом и лишь в той мере, в какой это необходимо в целях защиты конституционного строя, здоровья населения, общественной нравственности, прав и свобод других лиц, обеспечения общественной безопасности и общественного порядка» (*Акт о внесении Сената Олий Мажлиса Республики Узбекистан №19 от 26 июля 2023 года*). Принятие данного предложения позволило закрепить в новой Конституции норму о возможности частичного ограничения прав человека исключительно в условиях чрезвычайного положения и только с целью защиты конституционного строя, здоровья населения, общественной безопасности и порядка.

Научно обоснованы предложения, внесённые в части 4 и 7 статьи 12 Конституционного закона Республики Узбекистан «О чрезвычайном положении», касающиеся запрета или ограничения проведения собраний, митингов, уличных шествий и демонстраций, а также усиления охраны особо важных и категорированных объектов в условиях чрезвычайного положения (*Акт о внесении Сената Олий Мажлиса Республики Узбекистан № 20 от 26 июля 2023 года*). Принятие данных предложений способствовало повышению эффективности применения указанного закона.

Научно обосновано расширение полномочий Кабинета Министров, закрепленное в статье 8 Закона Республики Узбекистан «О защите населения и территорий от чрезвычайных ситуаций природного и техногенного характера», в части касающейся временного ограничения въезда и выезда

людей и транспортных средств в/из зон чрезвычайных ситуаций. Учёт данного предложения законодателем способствовал обеспечению неприкосновенности жизни, здоровья и имущества граждан в условиях чрезвычайных ситуаций (*Акт о внедрении Сената Олий Мажлиса Республики Узбекистан № 21 от 26 июля 2023 года*).

В связи с принятием обновлённой Конституции Республики Узбекистан в ряд законодательных актов были внесены изменения, включая нормы, запрещающие роспуск Законодательной палаты и Сената Олий Мажлиса в период действия чрезвычайного положения. Также научно обоснованы положения, предоставляющие Кабинету Министров право, в случае крайней необходимости, использовать имущество правообладателя без его согласия в целях обеспечения государственной обороны и безопасности, ликвидации последствий природных и техногенных чрезвычайных ситуаций, а также защиты жизни и здоровья граждан, с последующим уведомлением владельца и выплатой соответствующей компенсации. Принятие этих предложений способствует единообразному применению норм новой редакции Конституции (*Акт о внедрении Законодательной палаты Олий Мажлиса Республики Узбекистан № 02/6-09-41 от 26 февраля 2024 года*).

На основе предложений и рекомендаций, приведённых в диссертационном исследовании, были разработаны методологические рекомендации и учебная программа по преподаванию дисциплины «Права человека». Данные материалы внедрены в учебный процесс Университета общественной безопасности, Академии правоохранительных органов и Академии Министерства по чрезвычайным ситуациям (*Акты о внедрении Университета общественной безопасности № 346 от 7 февраля 2025 года, Академии правоохранительных органов от 3 марта 2025 года, Академии МЧС № 46/2-880 от 19 марта 2024 года*).

**Апробация результатов исследования.** Основные результаты исследования, научные выводы обсуждались на научно-практических семинарах, конференциях и круглых столах международного и республиканского уровней, в том числе на 7 международных и 4 республиканских научно-практических конференциях.

**Публикация результатов исследования.** По теме диссертации опубликована 33 научных работ, в том числе 14 статей в национальных журналах, входящих в перечень ВАК, 2 статьи в международных изданиях, 14 статей и тезисов в сборниках материалов научных конференций, а также одна монография.

**Объём и структура диссертации.** Диссертация состоит из введения, пяти глав, заключения, списка использованной литературы, а также приложений. Объём диссертации составляет 258 страниц.

**Э'ЛОН ҚИЛГАН ИШЛАР РО'УХАТИ**  
**LIST OF PUBLISHED WORKS**  
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**I bo'lim (I chast; I part)**

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