

**TOSHKENT DAVLAT YURIDIK UNIVERSITETI HUZURIDAGI
ILMIY DARAJALAR BERUVCHI DSc.07/30.12.2019.Yu.22.02 RAQAMLI
ILMIY KENGASH**

TOSHKENT DAVLAT YURIDIK UNIVERSITETI

ILXOMBЕКOV JASURBEK ILXOMBЕК O‘G‘LI

**INTERNETDAN AXBOROT OLISHNING
KONSTITUTSIYAVIY-HUQUQIY KAFOLATLARI**

12.00.02. – Konstitutsiyaviy huquq. Ma’muriy huquq.
Moliya va bojxona huquqi

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

Toshkent – 2024

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KIRISH

Dissertatsiya mavzusining dolzarbligi va zarurati. Dunyoda iqtisodiyot, siyosat, mudofaa, ta'lim, madaniyat va boshqa ko'plab sohalar, shuningdek barcha ijtimoiy va siyosiy jarayonlarga bevosita axborot almashinuvi o'z ta'sirini o'tkazmoqda. Bularning barchasi esa zamonaviy dunyo bugungi kunda axborotsiz mavjud bo'la olmasligidan dalolat bermoqda. Dunyoning deyarli barcha mamlakatlarida doimiy ravishda so'z erkinligi, axborot erkinligi, axborot olish va tarqatish huquqini amalga oshirish jarayonlarining huquqiy jihatlari bo'yicha tahlillar amalga oshirilib kelinmoqda. So'z erkinligi huquqi to'g'risidagi normalar barcha inson huquqlari bo'yicha xalqaro hujjatlarda o'z aksini topgan, xususan, Inson huquqlari umumjahon deklaratsiyasi, Fuqarolik va siyosiy huquqlar to'g'risidagi xalqaro pakt, Inson huquqlari bo'yicha Yevropa konvensiyasida ham shu kabi normalar batafsil ochib berilgan. Bundan tashqari 2011-yilgi BMT rezolyutsiyasida Internetdan foydalanish huquqi e'tirof etilgan. BMTning Inson huquqlari bo'yicha kengashi ham Internetdan foydalanishni insonning asosiy huquqlariga tenglashtirish bo'yicha rezolyutsiya qabul qilgan. Bugun Internet tarmog'ining faoliyati bilan bog'liq munosabatlarning davlat va jamiyat hayotida jadallik bilan ahamiyati ortib borayotganligiga qaramay, qonun normalari bilan to'liq tartibga solinmagan sohalardan biri bo'lib qolmoqda. Ushbu jarayondagi asosiy vazifalardan biri esa mazkur munosabatlarni huquqiy tartibga solishning zarur chorasini topish hisoblanadi. Axborot olish bilan bog'liq munosabatlar konstitutsiyaviy huquq normalari bilan tartibga solinishi kerak, chunki ular fuqarolarning konstitutsiyaviy huquqlarini amalga oshirish jarayonida bevosita o'z ta'sirini o'tkazadi.

Jahonda bugungi kunda axborot-kommunikatsiya sohasi jadallik bilan rivojlanib bormoqda. Ushbu rivojlanish bevosita axborot almashinuvi jarayoniga ham o'z ta'sirini o'tkazmoqda. Axborot almashinuvi jarayonida gegemon soha sifatida esa Internet o'z o'rnini shiddat bilan kengaytirmoqda. Hozirga kelib axborot sohasida ochiq siyosatga ega bo'lgan jamiyatlar axborot sohasida cheklovlariga ega bo'lgan va jahonda yuz berayotgan muammolardan o'rab olingan jamiyatlarga nisbatan ancha demokratik, kuchli hamda hayot bilan hamnafas rivojlanmoqda. Ta'kidlash lozimki, axborotga bo'lgan konstitutsiyaviy huquq insonning asosiy huquqlaridan biri bo'lib, ayni damda so'z erkinligining va dunyoqarash erkinligini tanlashning tashqi ifodasi sifatida ham ularning kafolati sifatida ham o'zini namoyon qiladi. Statistik ma'lumotlarda keltirilishicha, 2024-yil 1-mart holatiga ko'ra bugungi kunda jahonda 5,35 milliard Internet foydalanuvchisi bor. Demak, hozirda butun dunyo aholisining 66 % Internetga ega¹. 2024-yilda 1-mart holatiga ko'ra esa ijtimoiy tarmoqlardan 5,04 milliard foydalanuvchilar foydalanib kelmoqdalar, bu butun dunyo aholisining 60 % dan sal kamrog'ini tashkil qiladi². Statistik ma'lumotlarga ko'ra, O'zbekistonda Internetdan foydalanuvchilar soni 2016-yilda 12,1 mln bo'lgan bo'lsa, 2024-yil boshiga kelib ikki barobarga, ya'ni 33,81 % mln.dan oshdi, shuningdek, mamlakatimiz aholi yashash

¹ <https://www.forbes.com/home-improvement/internet/internet-statistics/>

² <https://www.statista.com/statistics/272014/global-social-networks-ranked-by-number-of-users/>

maskanlari hududining Internet tarmogʻi bilan qamrovi 2016-yildagi 28% dan 2024-yilda 98% ga yetgan³.

Oʻzbekistonda Internet tarmogʻining rivojlanishi natijasida milliy qonunchiligimizning ushbu sohada mavjud normalarini takomillashtirish muhim ahamiyat kasb etadi. Bu borada soʻnggi yillarda hukumatimiz tomonidan ijobiy ishlar amalga oshirilmoqda. Xususan, yangi tahrirda qabul qilingan Oʻzbekiston Respublikasi Konstitutsiyasining tegishli moddalarida fuqarolarimizning soʻz erkinligi, axborotni izlash, olish va tarqatish, shuningdek Internetdan foydalanish huquqlari mustahkamlab qoʻyilgan. Shuni alohida taʼkidlash joizki, Internetni huquqiy jihatdan rivojlantirishda xorijiy tajriba va amaliyotdan foydalanish soha rivoji uchun jiddiy yutuqlarni olib keladi. Zero, ushbu sohada milliy qonunchiligimiz xalqaro amaliyotdan orqada qolmoqda. Ushbu jarayon esa global tarmoqning milliy segmenti rivojlanishi, soʻz erkinligi, Internet orqali maʼlumot olish huquqi va boshqa konstitutsiyaviy huquqlarni amalga oshirish jarayonlarini sekinlashtiradi va uni rivojlantirish jarayonlariga toʻsqinlik qiladi. Internet hozirda keng imkoniyatlar makoniga aylanishi bilan global tarmoq anʼanaviy ommaviy axborot vositalarining oʻrnini egallab olganligi barchaga maʼlum. Bu esa axborot muhitining holati, foydalanuvchilarning huquqiy va axborot madaniyati darajasiga moslashtirilgan global tendensiyadir. Zero, OAV faoliyatini huquqiy jihatdan tartibga solish konstitutsiyaviy huquq uchun anʼanaviy yoʻnalish hisoblanadi.

Oʻzbekiston Respublikasining “Ommaviy axborot vositalari toʻgʻrisida”gi (2007), “Axborot olish kafolatlari va erkinligi toʻgʻrisida”gi (1997), “Axborot erkinligi prinsiplari va kafolatlari toʻgʻrisida”gi (2002), “Axborotlashtirish toʻgʻrisida”gi (2003) qonunlari, Oʻzbekiston Respublikasi Prezidentining 2017-yil 7-fevraldagi PF-4947-son farmoni bilan tasdiqlangan “2017 – 2021-yillarda Oʻzbekiston Respublikasini rivojlantirishning beshta ustuvor yoʻnalishi boʻyicha harakatlar strategiyasi”, 2022-yil 28-yanvardagi PF-60-son farmoni bilan tasdiqlangan “2022 – 2026-yillarga moʻljallangan yangi Oʻzbekistonning taraqqiyot strategiyasi” farmoni, 2018-yil 24-maydagi PQ-3737-son “Oʻzbekiston jurnalistika va ommaviy kommunikatsiyalar universitetini tashkil etish toʻgʻrisida”gi qarori, 2019-yil 27-iyundagi PQ-4366-son “Ommaviy axborot vositalari mustaqilligini taʼminlash hamda davlat organlari va tashkilotlari axborot xizmatlari faoliyatini rivojlantirish boʻyicha qoʻshimcha chora-tadbirlar toʻgʻrisida”gi qarori, Oʻzbekiston Respublikasi Vazirlar Mahkamasining 2018-yil 5-sentabrdagi 707-son qarori “Butunjahon Internet tarmogʻida axborot xavfsizligini yanada takomillashtirish chora-tadbirlari toʻgʻrisida”gi, qarori va mavzuga oid boshqa qonun hujjatlarida belgilangan vazifalarni amalga oshirishda ushbu dissertatsiya tadqiqoti muayyan darajada xizmat qiladi.

Tadqiqotning respublika fan va texnologiyalari rivojlanishining ustuvor yoʻnalishlariga mosligi. Mazkur tadqiqot respublika fan va texnologiyalar rivojlanishining “Demokratik va huquqiy jamiyatni maʼnaviy-axloqiy va madaniy rivojlantirish, innovatsion iqtisodiyotni shakllantirish ustuvor yoʻnalishi” doirasida tayyorlangan boʻlib, dissertatsiya 12.00.02 – Konstitutsiyaviy huquq. Maʼmuriy huquq. Moliya va bojxona huquqi yoʻnalishiga mos keladi.

³ <https://datareportal.com/reports/digital-2024-uzbekistan>

Muammoning o'rganilganlik darajasi. Mamlakatimizda yuridik fanlar doirasida Internetdan axborot olishning konstitutsiyaviy-huquqiy kafolatlari maxsus monografik tadqiqot obyekti sifatida o'rganilmagan. Shu bilan birga, tadqiqot mavzusining u yoki bu jihatlari I.Rustambekov, B.Xodjayeov, J.Abdullayev, A.Yo'ldoshev, N.Nugmanov, A.Amanov va boshqa olimlarning ilmiy ishlarida tadqiq etilgan⁴.

Mustaqil Davlatlar Hamdo'stligiga a'zo mamlakatlarda Internetdan axborot olishning konstitutsiyaviy-huquqiy kafolatlariga taalluqli ilmiy izlanishlar N.B.Baranova, A.A.Ishina, A.V.Krotov, T.Sh.Izzatov, T.A.Timerbaev, A.Yu.Proxorov, Yu.M.Lotman, S.V.Petrovskiy, S.Simonovich, G.Yevseev, O.N.Dudko, T.J.Baljirova, A.N.Sheremet, S.V.Malaxov, L.Kupriyanov, N.Kulicheva, B.V.Kristalniy, Yu.M.Nesterov, A.A.Chernov, V.I.Shalak, A.N.Kochetov, L.G.Lapo, M.A.Pogorelova, A.A.Tedeev, I.M.Rassolov, A.A.Lukyanov, S.V.Mixaylov, Ye.V.Altovskiy, A.Malkevich, Ya.N.Zasurskiy, A.Skvortsov va boshqa olimlar tomonidan olib borilgan⁵.

Xorijiy mamlakatlarda esa Y.Kurbaliyya, E.Gelbstayn, S.Baldi, V.Radunovich, K.Myoller, A.Amur, Ya.Akdeniz va boshqa olimlar tomonidan Internetdan axborot olish bilan bog'liq masalalar talqin qilingan⁶.

Biroq yuqorida keltirilgan tadqiqotlar tahlili Internetdan axborot olishning nazariy va amaliy muammolari O'zbekiston Respublikasining qonunchiligi, shuningdek ushbu sohaga oid xalqaro hujjatlar hamda boshqa normativ-huquqiy hujjatlar asosida kompleks tadqiqot ishi sifatida alohida o'rganilmaganidan dalolat beradi.

Dissertatsiya tadqiqotining dissertatsiya bajarilgan oliy ta'lim muassasasining ilmiy tadqiqot ishlari rejalari bilan bog'liqligi. Dissertatsiya mavzusi Toshkent davlat yuridik universitetining ilmiy-tadqiqot ishlari rejasiga muvofiq, "Rivojlangan davlatlar qonunchilik amaliyoti va xorijiy davlatlarning ijobiy yutuqlarini nazariy tadqiq etish asosida olingan natijalarni milliy qonunchilikka implementatsiya qilish" mavzusi doirasida bajarilgan.

Tadqiqotning maqsadi O'zbekiston Respublikasida Internetdan erkin tarzda axborot olishning konstitutsiyaviy-huquqiy kafolatlari bo'yicha ilmiy-amaliy xulosa, ilmiy asoslangan taklif va tavsiyalar ishlab chiqishdan iborat.

Tadqiqotning vazifalari:

- Internet tarmog'idan axborot olishning huquqiy tabiatini o'rganish;
- axborot olishga bo'lgan konstitutsiyaviy huquq nuqtayi nazaridan Internetning huquqiy ahamiyatli xususiyatlarini o'rganish;
- Internetdan foydalanish chog'ida yuzaga keladigan cheklovlarni aniqlash va ularning salbiy jihatlari yoritib berish;
- axborotga bo'lgan konstitutsiyaviy huquqning ta'minlanishida Internet tarmog'ining ahamiyatini yoritib berish;
- xorijiy mamlakatlar tajribasida Internetdan axborot olishning o'ziga xos xususiyatlarini tahlil qilish;

⁴ Mazkur ilmiy ishlarning to'liq nomi foydalanilgan adabiyotlar ro'yxatida keltirilgan.

⁵ Mazkur ilmiy ishlarning to'liq nomi foydalanilgan adabiyotlar ro'yxatida keltirilgan.

⁶ Mazkur ilmiy ishlarning to'liq nomi foydalanilgan adabiyotlar ro'yxatida keltirilgan.

- Internetdan axborot olish jarayonida aniqlangan muammolarni bartaraf etishning samarali yo‘nalishlarini belgilash bo‘yicha taklif va tavsiyalar ishlab chiqish.

Tadqiqotning obyekti O‘zbekistonda Internetdan axborot olish jarayonida yuzaga keladigan konstitutsiyaviy-huquqiy munosabatlar tizimi sanaladi.

Tadqiqotning predmetini O‘zbekiston Respublikasining Konstitutsiyasi, qonunlari, normativ-huquqiy hujjatlari, shuningdek xorijiy mamlakatlar konstitutsiyalari, xalqaro hujjatlarda internetdan axborot olish jarayonida yuzaga kelayotgan amaliyotdagi mavjud muammolar, masalaga oid statistik ma’lumotlar tashkil etadi.

Tadqiqotning usullari. Tadqiqotda bilishning formal-mantiqiy, analitik, tarixiy-huquqiy, qiyosiy, tahlil, umumlashtirish, qiyosiy-huquqiy, mantiqiy, statistik, tizimli-tuzilmaviy, so‘rovnoma, formal-yuridik kabi usullaridan foydalanildi.

Tadqiqotning ilmiy yangiligi quyidagilardan iborat:

axborot resurslaridan foydalanishda tenglik, erkinlik, shaxsiy hayot daxlsizligi prinsiplarini ta‘minlash maqsadida axborotning mulkdori yoki egasi tomonidan qonunchilikda belgilangan talablarga rioya etgan holda axborot resurslaridan axborot olish tartibini aniqlashi zarurligi asoslab berildi;

shaxslarning axborotdan samarali foydalanish, asosli qarorlar qabul qilish, o‘z huquqlarini himoya qilish va axborot jamiyati rivojiga hissa qo‘shishini ta‘minlash maqsadida “axborot resursi” tushunchasining mazmunini axborot tizimi tarkibidagi elektron shakldagi axborot, ma’lumotlar banki, ma’lumotlar bazasi, shu jumladan axborot tizimlarida ochiq shaklda joylashtiriladigan yoxud e‘lon qilinadigan “audio”, “video”, “grafik” va “matnli axborot”dan iborat bo‘lishi ilmiy-nazariy asoslab berildi;

davriy bosma nashr elektron shaklining huquqiy tabiatiga oid xalqaro standartlar va doktrinal qarashlardan kelib chiqqan holda axborotning qonuniyligi, ishonchliligi va sifati, axborotdan foydalanish imkoniyati va uning xavfsizligini ta‘minlash maqsadida elektron shakldagi davriy bosma nashrning axborot tashuvchi jismlarga yozilgan, shuningdek Internet jahon axborot tarmog‘iga joylashtirilgan, elektron texnik qurilmalar yordamida foydalanishga mo‘ljallangan gazetalar, jurnallar, axborotnomalar, byulletenlar va boshqa davriy bosma nashrlardan iborat ekanligi ilmiy asoslab berildi;

axborot olishda tenglikni ta‘minlash, zarur axborotni o‘z vaqtida olish va jamoatchilikka yetkazishni ta‘minlash maqsadida ommaviy axborot vositasining davlat hokimiyati va boshqaruvi organlari faoliyati to‘g‘risida axborot olishga doir, shuningdek mansabdor shaxslarning intervyusini tashkil etish to‘g‘risidagi so‘roviga javob olish maqsadida ularning ushbu so‘roviga javob ko‘pi bilan yetti kun muddatda ko‘rib chiqilishi zarurligi asoslab berildi.

Tadqiqotning amaliy natijalari quyidagilardan iborat:

“Internet”, “Ijtimoiy tarmoq”, “Axborot”, “Internet etikasi”, “Blogger” kabi tushunchalarga nisbatan mualliflik ta‘riflari ishlab chiqildi;

Internetdan foydalanishda vujudga keladigan munosabatlar, ayniqsa axborot olishdagi mavjud hamda o‘z yechimini topishi lozim bo‘lgan masalalar xalqaro tajribani inobatga olgan holda qabul qilinadigan Internet to‘g‘risidagi qonun bilan tartibga solinishi lozimligi asoslab berildi;

Internet to‘g‘risidagi qonun qabul qilinishi natijasida Internet tarmog‘idan foydalanish jarayonida vujudga keladigan munosabatlardan kelib chiqadigan

majburiyatlarni bajarish, qaysi vaqtdan boshlab bunday majburiyatlar bajarilgan deb hisoblanishini belgilash va ular bajarilganini hujjatlar bilan tasdiqlash masalalari o‘z yechimini topishi izohlab berildi;

ijtimoiy tarmoqlar bloklanishining “ijtimoiy” va “iqtisodiy” ta’sirlari, ya’ni ushbu holatda vujudga keladigan salbiy oqibatlar ilmiy asoslab berildi;

Internetda vujudga keladigan ijtimoiy munosabatlarni huquqiy tartibga solishga yo‘naltirilgan qonunchilik bazasi tahlil etilib, tegishli huquqiy asoslarning shakllanish bosqichlari va rivojlanish dinamikasini amaliyotga joriy etish kerakligi ilmiy izohlab berildi;

Tadqiqot natijasida Internetdan foydalanish to‘g‘risidagi qonun loyihasi ishlab chiqildi va O‘zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasi huzuridagi Parlament tadqiqotlari institutiga taqdim qilindi.

Tadqiqot natijalarining ishonchliligi. Tadqiqot natijalari xalqaro huquq va milliy qonunchilik normalari, rivojlangan davlatlar tajribasi, qonunni qo‘llash amaliyoti, so‘rovnomalar, statistik ma’lumotlarni tahlil qilish natijalari asosida umumlashtirilgan va tegishli hujjatlar bilan rasmiylashtirilgan. Rivojlangan davlatlar tajribasi va milliy qonunchilik normalarining o‘zaro tahlili asosida xulosa, taklif va tavsiyalar aprobatsiyadan o‘tkazilib, ularning natijalari yetakchi milliy va xorijiy nashrlarda e’lon qilingan. Olingan natijalar vakolatli davlat organlari tomonidan tasdiqlangan va amaliyotga joriy qilingan.

Tadqiqot natijalarining ilmiy va amaliy ahamiyati. Tadqiqot natijalarining ilmiy ahamiyati undagi ilmiy-nazariy xulosalar, taklif va tavsiyalardan Internetdan axborot olish masalalari yuzasidan ilmiy izlanishlar olib borish, qonun hujjatlarining tegishli normalarini sharhlash, milliy qonunchilikni takomillashtirish hamda “Konstitutsiyaviy huquq”, “Qiyosiy konstitutsiyaviy huquq”, “Davlat va huquq nazariyasi” kabi fanlarni o‘qitish va ilmiy-nazariy jihatdan yanada boyitishda, shuningdek Internetda vujudga kelishi mumkin bo‘lgan konstitutsiyaviy-huquqiy masalalar bo‘yicha o‘quv kurslarida, maxsus kurslar uchun uslubiy materiallar ishlab chiqishda, o‘quv dasturlari, o‘quv qo‘llanmalarini tayyorlashda va ilmiy faoliyatda ham foydalanish mumkinligi bilan belgilanadi.

Tadqiqot natijalarining amaliy ahamiyati shundaki, ushbu natijalaridan milliy qonunchiligimiz amaldagi normalarining Internetda axborot olish bilan bog‘liq bo‘lgan qismlariga qo‘shimcha va o‘zgartirish kiritishda, normativ-huquqiy hujjatlarni va huquqni qo‘llash amaliyotini takomillashtirishda, shuningdek, o‘quv seminarlari va treninglarda, o‘quv va uslubiy qo‘llanmalar tayyorlashda foydalanish mumkinligi bilan belgilanadi.

Tadqiqot natijalarining joriy qilinishi. Internetdan axborot olish huquqini ta’minlashni takomillashtirish sohasidagi tadqiqot bo‘yicha olingan ilmiy natijalar asosida:

axborot resurslarining mulkdori yoki egasi tomonidan qonunchilikda belgilangan talablarga rioya etgan holda axborot resurslaridan axborot olish tartibini aniqlashi zarurligiga oid taklif O‘zbekiston Respublikasining “Axborotlashtirish to‘g‘risida”gi Qonunida o‘z ifodasini topgan (O‘zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasi huzuridagi Parlament tadqiqotlari institutining 2023-yil 13-oktabrdagi 02-08-372-son dalolatnomasi). Ushbu taklifning inobatga olinganligi axborot

resurslaridan axborot olish tartibini axborot resurslarining mulkdori yoki egasi qonun hujjatlari bilan emas, balki qonunchilikda belgilangan talablarga rioya etgan holda aniqlashiga xizmat qilgan;

“axborot resursi” tushunchasi bu axborot tizimi tarkibidagi elektron shakldagi axborot, ma’lumotlar banki, ma’lumotlar bazasi, shu jumladan axborot tizimlarida ochiq shaklda joylashtiriladigan yoxud e’lon qilinadigan “audio”, “video”, “grafik” va “matnli axborot” ekanligiga oid taklif O‘zbekiston Respublikasining “Axborotlashtirish to‘g‘risida”gi Qonunida o‘z ifodasini topgan (O‘zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasi huzuridagi Parlament tadqiqotlari institutining 2023-yil 13-oktabrdagi 02-08-372-son dalolatnomasi). Ushbu taklifning inobatga olinganligi axborot resursining nafaqat axborot tizimi tarkibidagi elektron shakldagi axborot, ma’lumotlar banki, ma’lumotlar bazasi, balki axborot tizimlarida ochiq shaklda joylashtiriladigan yoxud e’lon qilinadigan “audio”, “video”, “grafik” va “matnli axborot”dan iborat bo‘lishiga xizmat qilgan;

davriy bosma nashrning elektron shakli – axborot tashuvchi jismlarga yozilgan, shuningdek Internet jahon axborot tarmog‘iga joylashtirilgan, elektron texnik qurilmalar yordamida foydalanishga mo‘ljallangan gazetalar, jurnallar, axborotnomalar, byulletenlar va boshqa davriy bosma nashrlar ekanligiga oid taklif O‘zbekiston Respublikasining “Ommaviy axborot vositalari to‘g‘risida”gi Qonuni 35¹-moddasida o‘z ifodasini topgan (O‘zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasi huzuridagi Parlament tadqiqotlari institutining 2023-yil 13-oktabrdagi 02-08-372-son dalolatnomasi). Ushbu taklif Internet tarmog‘idan axborot olishni huquqiy jihatdan tartibga solish va bunda davlat organlari hamda mansabdor shaxslarning majburiyatlarini konstitutsiyaviy-huquqiy jihatdan tadqiq qilishiga xizmat qilgan;

ommaviy axborot vositasining davlat hokimiyati va boshqaruvi organlari faoliyati to‘g‘risidagi axborotni olishiga doir, shuningdek mansabdor shaxslarning intervyusini tashkil etish to‘g‘risidagi so‘rovi ko‘pi bilan yetti kun muddatda ko‘rib chiqilishi zarurligiga oid taklif O‘zbekiston Respublikasining “Ommaviy axborot vositalari to‘g‘risida”gi Qonunning 27-moddasida o‘z ifodasini topgan (O‘zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasi huzuridagi Parlament tadqiqotlari institutining 2023-yil 13-oktabrdagi 02-08-372-son dalolatnomasi). Ushbu taklif axborot erkinligi va ommaviy axborot vositalarining davlat hokimiyati, boshqaruvi organlari faoliyatiga doir, shuningdek mansabdor shaxslarning intervyusini tashkil etish masalalarini huquqiy jihatdan tartibga solishga xizmat qilgan.

Tadqiqot natijalarining aprobatsiyasi. Mazkur tadqiqot natijalari 8 ta ilmiy anjumanda, jumladan, 2 ta xalqaro, 6 ta respublika miqyosida o‘tkazilgan ilmiy-amaliy konferensiya, davra suhbatlari va seminarlarda sinovdan o‘tgan.

Tadqiqot natijalarining e’lon qilinganligi. Mazkur tadqiqot natijalari bo‘yicha jami 14 ta ilmiy ish, jumladan, ilmiy jurnallarda 6 ta (2 ta xorijiy nashrlarda) va to‘plamlar tarkibida 8 ta ilmiy maqola chop etilgan.

Dissertatsiyaning tuzilishi va hajmi. Dissertatsiya tarkibi kirish, sakkiz paragrafni o‘z ichiga olgan uchta bob, xulosa, foydalanilgan adabiyotlar ro‘yxati hamda ilovalardan iborat. Dissertatsiyaning hajmi 155 betni tashkil etadi.

DISSERTATSIYANING ASOSIY MAZMUNI

Dissertatsiyaning kirish qismida tadqiqot mavzusining dolzarbligi va zarurati, uning respublika fan va texnologiyalari rivojlanishining asosiy ustuvor yo'nalishlariga bog'liqligi, muammoning o'rganilganlik darajasi, mavzuning dissertatsiya bajarilayotgan oliy ta'lim muassasasining ilmiy tadqiqot ishlari bilan aloqasi, uning maqsad va vazifalari, obyekti va predmeti, usullari, ilmiy yangiligi va amaliy natijasi, tadqiqot natijalarining ishonchliligi, ilmiy va amaliy ahamiyati, joriy qilinishi, aprobatsiyasi, natijalarning e'lon qilinganligi, dissertatsiyaning hajmi va tuzilishi haqida ma'lumotlar keltirilgan.

Dissertatsiyaning birinchi bobi **“Axborot olish va tarqatishning konstitutsiyaviy-huquqiy tabiati”** deb nomlanib, unda axborotni tushunish bo'yicha nazariy-huquqiy qarashlar va zamonaviy tendensiyalar, axborot olish va tarqatish huquqining konstitutsiyaviy kafolatlarining rivojlanish bosqichlari, axborot texnologiyalari rivojlanishining axborot olish huquqiga nisbatan ta'siri va axborot olish va tarqatish huquqining inson huquqlari va erkinliklari tizimidagi o'rni ilmiy-nazariy tahlil qilingan.

Birinchi bobda “axborot” tushunchasiga batafsil to'xtalib o'tilgan va muallif uni kengroq tushunish uchun olimlarning axborotga bo'lgan qarashlarini batafsil tahlil qilgan. Xususan, bir qator olimlarning axborotga bo'lgan qarashlarini turlicha bo'lganligi sababli ularga batafsil to'xtalib tahlil qilingan. Bir qator olimlar N.B.Baranova, A.A.Ishina, A.V.Krotov, T.A.Timerbayev, S.V.Malaxov A.Yu.Proxorov, Yu.M.Lotman, T.J.Baljirova, A.N.Sheremet, T.Sh.Izzatovlarning “axborot” haqidagi qarashlari tahlildan o'tkazilgan va ularning orasida N.B.Baranova va A.A.Ishinalarning axborot haqidagi fikrlarini ancha teran hamda hayotiy degan to'xtamga kelingan. Zero, ushbu olimlarning tahlillari asosida muallif *“Axborot odamlar muloqotining muhim tarkibiy qismi, uning ishonchliligi odamlar o'rtasidagi teng, samarali munosabatlarining asosi bo'lib xizmat qilishi, axborot insoniyat taraqqiyotining hozirgi bosqichida odamlar tomonidan bir-biriga uzatiladigan ma'lumotlar shaxs va butun jamiyat rivojlanishi uchun qulay shart-sharoitlarga erishish vositasidir. Shuningdek, axborotni foydalanuvchi tomonidan uning maqsadlari, o'z oldiga qo'ygan va hal qilinishi kerak bo'lgan vazifalari, foydalaniladigan axborot sohasidagi bilim darajasi asosida talqin qilingan moddiy va moddiy bo'lmagan dunyoning har qanday hodisasi haqidagi xabarlar, ma'lumotlar yoki bilimlarning mazmunidir”*, degan xulosaga kelgan.

Izlanish chog'ida olimlarning fikrlarini tahlil qilgan holda muallif *“axborot olish huquqi tabiiy huquq deb hisoblanishi lozim va bu hodisa XXI asrda uzviy huquqqa aylanishga ulgurdi”*, degan xulosaga keldi.

Ilmiy ishda muallif bugungi kunda Internetdan axborot olish huquqining rivojlanish tendensiyalariga to'xtalib o'tib, uning rivojlanishini antik davrdan boshlab butun dunyoda va mamlakatimiz tarixida bo'lib o'tgan bosqichlarini batafsil tahlil qilgan. Ushbu tahlil jarayonida bir qator xorijiy olimlarning fikrlari tahlil qilingan. Xususan, V.V.Maklakov, Aleksis de Tokvil, V.I.Shalak, A.A.Tedeyev kabi olimlarning bugungi kun axborot makonining ko'rinishi haqidagi ilmiy qarashlariga to'xtalib o'tilgan.

Muallif XXI asrni axborot, axborotning inqilobiy asri deb, bunga asos sifatida misli ko'rilmagan axborot uzatish hajmining, axborot tezligining va yangi texnologiyalarni ishlab chiqishning rivojlanishida deydi. Axborot almashinuvi evolyutsiyasiga to'xtalib, jumladan: telegraf ixtirosi va aylanma matbaa (1847), telefon (1870), radio (1895), simsiz telegraf (1922), televideniya (1930) va 1946-yilda Sent-Luisda (AQSh) radiotelefon tizimi yaratilganiga to'xtaladi. Tadqiqot ishining asosini virtual dunyoda bo'ladigan ijtimoiy munosabatlar tashkil etganligini ta'kidlagan holda Internetning (1986) yarialishi insoniyat tarixidagi olamshumul voqealardan biri bo'lganligiga to'xtaladi.

Tadqiqotchi Internet axborot-kommunikatsiya tarmog'i sifatida bugungi kunda kundalik turmush tarzimiz, jamiyatimiz va hayotimizda muqim o'rin tutgan hodisa sifatida shakllanganligini alohida ta'kidlaydi. Iqtisodiy quvvatlarning axborot-texnik jihozlanishini takomillashtirish, davlat boshqaruvi tizimini modernizatsiya qilish va axborot jarayonlarining jamiyat hayotining eng xilma-xil sohalariga joriy etilishi tobora ilg'or axborot fuqarolarning kundalik hayotidagi texnologiyalarining jadal integratsiyalashuviga olib kelgan degan fikrga kelindi. Chunki, AQSh hukumatining olib borgan tadqiqotlari shuni ko'rsatdiki, Internet jadal sur'atlar bilan rivojlanib bordi. Xususan, 50 millionlik auditoriyaga ega bo'lish uchun radioga 30 yil, televideniya 13 yil, Internetga esa atigi 4 yil kerak bo'lganligi alohida ta'kidlandi.

Fuqarolarning axborotga bo'lgan konstitutsiyaviy huquqini tadqiq qilish doirasida Internetning mazmuni va tabiatini har tomonlama o'rganish tadqiqotchiga global tarmoqning bir nechta vazifasini aniqlash imkonini beradi. Ushbu vazifalar:

- fuqarolarning axborotga bo'lgan konstitutsiyaviy huquqining mazmuniga kiritilgan vakolatlarni amalga oshirish imkoniyatlarini ta'minlovchi virtual makon;

- fuqarolarning axborot olishga bo'lgan konstitutsiyaviy huquqini amalga oshirish bilan bog'liq bo'lgan turli jamoatchilik munosabatlari uchun maxsus platforma;

- fuqarolarning axborotga bo'lgan konstitutsiyaviy huquqi mazmuniga kiruvchi turli vakolatlarni amalga oshirish vositasi (axborotdan foydalanish, axborotdan o'z ehtiyojlari uchun foydalanish, tarqatish, ma'lumotlarni nusxalash hamda uzatish, oldindan belgilangan mezonlarga javob beradigan ma'lumotlarni o'z manzillariga yuborish va boshqalar);

- fuqarolarning axborotga bo'lgan konstitutsiyaviy huquqi va shaxsiy ma'lumotlariga bo'lgan huquqi buzilishining xavfi bo'lgan platforma;

- davlat hokimiyati organlari, mahalliy davlat hokimiyati organlari, tashkilot va muassasalar faoliyati ustidan jamoatchilik nazorati vositasi;

- bizga ma'lumki jamoatchilik nazorati demokratiyaning asosiy ustunlaridan biri hisoblanadi, demak Internetning rivojlanishi demokratik-huquqiy davlatning, fuqarolik jamiyatining rivojlanishiga juda katta turtki bo'lib xizmat qiladi.

Ushbu vazifalar Internetning roli va ahamiyatini, uning davlat, jamiyat, qolaversa insonlar hayotida tutgan o'rnini oz bo'lsa-da ochib beradi, degan fikrga kelindi.

Dissertant bir qator xorijiy davlatlar (Gruziya, Ozarbayjon, Meksika, Germaniya va Turkiya) konstitutsiyalarida so'z va axborot erkinligi masalalari, shuningdek Internetdan foydalanish huquqi o'rin olganligini hamda fuqarolarning ushbu huquqlardan foydalanishlari davlatlarning konstitutsiyalari darajasida ta'minlanganligiga e'tibor qaratib, milliy konstitutsiyamizda ushbu huquqlardan

foydalanish huquqining fundamental inson huquqi sifatidagi o'rniga huquqiy baho bergan.

Tadqiqot davomida Internet olamida o'z o'rniga ega bo'lgan *EuroDIG, IGF, IFLA, Blue Ribbon Campaign for Online Free Speech, American Civil Liberties Union, Electronic Frontiers Australia, Electronic Frontiers Canada, Electronic Frontier Foundation, Internet Society, Global Internet Liberty Campaign* kabi tashkilotlarning faoliyati o'rganilib tahlil qilindi.

Tadqiqot davomida Internetni xalqaro tartibga solishning ijobiy tomonlari tahlil qilindi va ular quyidagilar:

- *muayyan davlatlarning qonunchiligi yoki mafkurasi bilan belgilanmagan Internet boshqaruvi muammolari, shu jumladan Internet makonida so'z erkinligi va axborotdan foydalanish huquqini ta'minlash masalalari bo'yicha ochiq va erkin muloqot qilish imkoniyati;*

- *“ishtirokchi yondashuv”, ya'ni qarorlar qabul qilishda ko'plab ishtirokchilarni: hokimiyat organlari, xalqaro, hukumatlararo va nodavlat tashkilotlar, ilmiy va ekspert hamjamiyatlari, amalda Internet boshqaruvi muammolariga duch kelayotgan fuqarolik jamiyatining boshqa vakillarini jalb qilish;*

- *Internetni boshqarish muammolarini xolis, to'liqroq va dalillarga asoslangan holda tahlil qilish;*

- *xalqaro darajada qabul qilingan qoidalar davlatning Internetga bo'lgan huquqiy tabiatini ochib beradi;*

- *qarorlar qabul qilishda BMT va mintaqaviy xalqaro tashkilotlar darajasida qabul qilingan inson huquqlari bo'yicha fundamental hujjatlarni hisobga olish.*

Tadqiqotchining fikriga ko'ra, butunjahon Internet tarmog'ini xalqaro tartibga solishning zaif tomonlari quyidagilardan iborat:

- *aksariyat hollarda xalqaro tashkilotlarning qarorlari maslahat xarakteriga ega bo'lib, bu barcha yurisdiksiyalar tomonidan milliy darajada qabul qilinishiga umid qilishga imkon bermaydi. Ammo davlatlararo imzolangan va ratifikatsiya qilingan xalqaro shartnomalar bundan mustasnodir;*

- *barcha milliy yurisdiksiyalar, ya'ni davlatlar Internetni tartibga solishning ayrim xalqaro normalari va tamoyillarini bir ma'noda qabul qilmaydi;*

- *yuqorida sanab o'tilgan xalqaro tashkilotlar tomonidan taklif etilayotgan Internet tarmog'ini tartibga solishning aksariyat norma va tamoyillari axloqiy xarakterga ega bo'lganligi sababli, ularni idrok etish mamlakatdan nihoyatda yuksak huquqiy (axborot) madaniyatini talab qiladi;*

- *ko'plab xalqaro - nohukumat va hukumatlararo tashkilotlar (“Chegara bilmas muxbirlar”, IFLA va boshqalar) nuqtayi nazaridan Internetni tartibga solishga bo'lgan har qanday urinish Internetda senzuraning noqonuniy o'rnatilishi sifatida qabul qilinadi. Natijada, ushbu holat avtomatik ravishda so'z erkinligi va axborotdan foydalanish huquqining buzilishi sifatida baholanadi.*

Dissertatsiyaning ikkinchi bobi **“Internetda axborotga bo'lgan huquqni amalga oshirishning konstitutsiyaviy-huquqiy masalalari”** deb nomlangan. Unda Internet makonidagi huquqiy munosabatlarning konstitutsiyaviy-huquqiy tahlili, axborotga bo'lgan konstitutsiyaviy huquqning ta'minlanishida Internetning ahamiyati,

Internetdan axborot olishni huquqiy jihatdan tartibga solish va amalga oshirish muammolariga doir masalalar tadqiq etilgan.

Huquqshunoslar orasida Internetning huquqiy mohiyati va u bilan bog'liq yagona nuqtayi nazar mavjud emas. Bu boradagi qarashlar hamda global tarmoq haqidagi ta'riflar ham turlicha. Ilmiy ish doirasida tadqiqotchi ushbu masalada olimlarning bu boradagi qarashlari bilan tanishib o'rgangan. Dissertant virtual makonning asosiy bo'g'ini sanalgan Internet olamini tadqiq qilgan holda bir qancha olimlarning ushbu makon haqidagi qarashlari va izlanishlari natijasida kelgan xulosalarini o'rganib tahlil qilgan. Xususan, V.A.Kopilov, I.M.Rassolov, A.A.Lukyanova, S.V.Petrovskiy, V.A.Ostreykovskiy, S.V.Malaxov, V.I.Shalak, S.V.Mixaylov, A.N.Sheremet, Y.Kurbaliyya, A.A.Tedeev, Yu.Melnikov va A.Terenin, Ye.V.Altovskiy kabi olimlarning izlanishlari va qarashlari chuqur tahlildan o'tkazildi.

Izlanish davomida Internet haqidagi olimlarning fikrlari turlicha bo'lgani bilan ularning xulosalari o'xshash, degan to'xtamga kelindi. Ularning tadqiqotlari Internetda axborot olish va uni tarqatishda yuzaga keladigan huquqiy munosabatlarning mohiyatini ochib berishga xizmat qiladi.

Global tarmoqdagi huquqiy munosabatlarning tahlili shuni ko'rsatdiki, ularni *Internetga oid huquqiy munosabatlar va Internet vositachiligidagi huquqiy munosabatlarga* ajratgan holda tushunish kerak.

Huquqiy nuqtayi nazardan olganda, tadqiqotchi Internet sohasidagi huquqiy munosabatlarni **ikkita** katta yo'nalishga ajratgan holda tahlil qilgan. O'z navbatida ushbu yo'nalish boshqa xususiyatlar bilan bir qatorda muhokama qilinayotgan sohadagi huquqiy tartibga solishning o'ziga xos xususiyatlarini ham tavsiflaydi:

1) *Internetga oid huquqiy munosabatlar, u bilan bog'liq yoki uning faoliyati, shuningdek faoliyatining boshqa resurslari, Internetga kirish, Internet resurslarini yaratish, modernizatsiya qilish, qayta tashkil etish, tugatish, Internet tarmog'ida (to'liq yoki qisman) yoki Internet orqali turli xil xizmatlar va boshqa imtiyozlarni reklama qilish, taqdim etish hamda iste'mol qilish;*

2) *ma'lumotlarga nisbatan Internet vositachiligidagi huquqiy munosabatlar, ya'ni Internet faqat ushbu munosabatlarga vositachilik qiluvchi muhit sifatida ishlaydigan huquqiy munosabatlar.*

Tadqiqot ishida axborot olish huquqi, undan erkin foydalanish, Internetdagi huquqiy munosabatlar kabi muammolar tahlil qilindi. Internetdagi huquqiy munosabatlarning tahlili shuni ko'rsatdiki, ushbu yo'nalishni huquqiy tartibga solish dolzarb masaladir. Bu yerda asosiy masala Internetni huquqiy tartibga solishni amalga oshiruvchi tashkilotni belgilab olish muhimdir. Tadqiqotchi, ushbu sohani davlat tomonidan tartibga solinishi to'g'ri bo'ladi, degan xulosaga kelgan. Uning fikricha, davlat Internetni huquqiy jihatdan tartibga solishni amalga oshirishga haqli organ hisoblanadi. Davlat ushbu jarayonda nafaqat sohani tartibga solishga haqli, balki amalga oshirishga majbur deb ham hisoblaydi.

Olib borilgan tadqiqotlar shuni ko'rsatadiki, dunyo miqyosida, ayniqsa rivojlangan mamlakatlarda Internetni davlat tomonidan boshqarilishi uning samaradorligini yanada oshiradi. Ushbu sohada davlat boshqaruvining (shu jumladan huquqiy tartibga solishning) axborot va telekommunikatsiya munosabatlarida, shu jumladan Internetni boshqarishda eng samarali usuli bu kombinatsiyalangan (qo'shma)

imperativ-dispozitiv usul bo'lib, uning tarkibidagi o'lchov xususiyatlariga ko'ra, aynan dispozitiv usulning davlat tomonidan fuqarolik jamiyati institutlari bilan hamkorlikda amalga oshirilgan shakllari ustunlik qiladi, degan xulosaga kelishga imkon berdi.

Ushbu jarayon davlat va nodavlat subyektlarining vakolatlari doirasi demokratik davlatlar uchun sezilarli darajada mos keladi. Lekin avtoritar siyosat yuritadigan va Internetni maksimal darajada nazorat ostiga olishga intilayotgan davlatlarga ushbu vakolatlar u qadar mos kelmaydi.

Internet bilan bog'liq bo'lgan huquqni qo'llash amaliyotini tahlil qilish tadqiqotchiga huquqiy tartibga solish va qonunni qo'llashning umumiy (eng keng tarqalgan) xususiyatlarida (keng ma'noda) asosiy semantik dominant va dolzarbligi jihatidan eng muhim degan xulosaga kelishiga imkon berdi. Huquqni muhofaza qilish organlariga ta'sir ko'rsatadigan muhit, jamoat munosabatlari vositasi sifatida Internetning o'ziga xos xususiyatlari sifatida dalillarni aniqlashning qiyinligi, jinoyat hodisasini aniqlash, aybdorlarni aniqlash va boshqalarni ko'rib chiqish mumkin. Internetning uning huquqiy tartibga solinishiga sezilarli ta'sir ko'rsatadigan xususiyatlari yuqorida ko'rsatilgan ikkita yo'nalishning birinchisiga ko'proq bog'liq, ya'ni Internetga oid huquqiy munosabatlar va uning faoliyatining ayrim jihatlari yoki resurslarining ishlashi bilan bog'liq. Bunda Internet tarmog'iga kirish, Internet resurslarini yaratish, modernizatsiya qilish, qayta tashkil etish, tugatish, begonalashtirish, Internet tarmog'ida yoki (to'liq yoki qisman) Internet tarmog'i yordamida reklama qilish, turli xizmatlarni ko'rsatish, iste'mol qilish va boshqa imtiyozlar kabi masalalar kiradi.

Axborotga bo'lgan konstitutsiyaviy huquq tahlilida Internetning mazmuni va tabiatini ko'p qirrali tahlil qilish tadqiqotchiga konstitutsiyaviy huquqiy nuqtayi nazardan Internet bugungi kunda quyidagi jihatlari bilan ajralib turadi degan xulosani ilgari surishga imkon beradi:

- *axborot tushunchasi bilan chambarchas bog'liq bo'lgan va axborotga bo'lgan konstitutsiyaviy huquqning elementlariga mos keladigan global nomoddiy umuminsoniy ne'mat;*

- *axborotga bo'lgan konstitutsiyaviy huquqni amalga oshirish bilan bog'liq va axborot vositasida amalga oshiriladigan shaxsiy, jamoaviy, davlatlararo, xalqaro, tizim ichidagi, institutlararo, shu jumladan jamiyatlararo hamda shaxslararo munosabatlarning muhiti;*

- *tadbirkorlik va qonun hujjatlarida taqiqlanmagan boshqa xo'jalik faoliyatini amalga oshirish bo'yicha kafolatlangan huquqlarni amalga oshirishning o'ziga xos muhiti (elektron tijorat, elektron pul, Internet to'lov tizimlari va boshqalar);*

- *axborotga kirish huquqi, ma'lumotga ega bo'lish huquqi, ma'lumotlardan foydalanish huquqi, tarqatish huquqlari (jumladan, nusxa olish va uni uzatish) kabi huquqlarni amalga oshira oladigan hamda axborotga bo'lgan huquqni amalga oshirishning kafolati va vositasi sifatida axborot, ma'lum bir axborot oluvchilarga ma'lumot yuborish huquqlari to'plami, shaxslararo aloqalar doirasida axborotdan foydalanish, shuningdek Internet bilan aloqada bo'lgan ma'lumotlarga bo'lgan kompleks huquqning boshqa tarkibiy qismlaridan iborat axborot makoni;*

- *bir qator elementlar bo'yicha axborotga bo'lgan konstitutsiyaviy huquqning buzilish xavfi va yangi tahdidlarning o'ziga xos muhiti;*

- davlat boshqaruvi organlari, mahalliy davlat hokimiyati organlari, tashkilotlar, muassasalar va boshqalarning faoliyati ustidan jamoatchilik nazoratini amalga oshirish vositasi (axborot olish huquqini amalga oshirish orqali).

Shu bilan bir qatorda shuni alohida ta'kidlash kerakki, Internetning paydo bo'lishi, uning jadallik bilan rivoj topishi, universalligining oshishi va odamlar hayotiga keng miqyosda kirib borishi axborotga bo'lgan konstitutsiyaviy huquq tarkibini to'ldiradigan yangi axborot huquqlarining paydo bo'lishiga olib keldi.

Ushbu yangi huquqlar orasida, birinchi navbatda, Internetga kirish huquqini ajratib ko'rsatish kerak. Zero, mazkur huquq jamiyat taraqqiyotiga va muayyan bir davlat fuqarolarning so'z erkinligiga bo'lgan ehtiyojining qondirilishiga sabab bo'ladi. Shuning uchun ham ushbu huquqning normativ-huquqiy hujjatlar bilan mustahkamlanishi uning hayotda hech qanday to'siqlarsiz amalga oshirilishiga xizmat qiladi.

Axborotga bo'lgan konstitutsiyaviy huquqqa tahdidlarning kelib chiqishi hamda ushbu tahdidlarni amalga oshirilishida kelib chiqadigan salbiy huquqiy oqibatlar mavjud. Ushbu tahdidlar Internetning o'ziga xos xususiyatlaridan kelib chiqqan holda, butun bir kompleks tarzda buzilgan huquqlarning yirik ko'rinishi shaklida axborotga bo'lgan konstitutsiyaviy huquqning elementlari sifatida o'zini namoyon qiladi. Bular quyidagilar:

1) axborotdan foydalanish huquqlarining buzilishi:

- Internet xizmatlarini ko'rsatishni qonunga xilof ravishda rad etish tufayli ma'lumotlarga kirish huquqlarining buzilishi;

- login va parollarning o'g'irlanishi sababli ma'lumotlarga kirish huquqlarining buzilishi;

- pullik ma'lumotlar bazalariga kirishni ta'minlovchi login va parollar o'g'irlanishi sababli ma'lumotlarga kirish huquqlarining buzilishi;

- kompyuter tizimi va uning dasturiy ta'minoti ishlamay qolganligi sababli ma'lumotlarga kirish huquqlarining buzilishi - parolni taxmin qilish, xavfsizlik va ma'muriy tizimlarni buzish, boshqa usullardan foydalanish, shu jumladan zararli kompyuter dasturlaridan foydalanish;

- qidiruv yo'nalishini manipulyatsiya qilish orqali ma'lumotlarga kirish huquqlarining buzilishi, ya'ni Internet tizimini manipulyatsiya qilish, domen manzillari tizimiga kirish va Internet kontentini filtrlash tizimlari;

2) shaxsning iqtisodiy va boshqa qonuniy manfaatlariga qonunga xilof ravishda tajovuz qilish maqsadida identifikatsiya qilish va avtorizatsiya qilish huquqini buzish:

- login va parolni buzish yoki ushlab qolish orqali (elektron pul tizimlari, elektron to'lovlar, bank xizmatlari va boshqalar) ushbu shaxsning to'lov tizimlaridagi hisob raqamlariga ruxsatsiz kirish orqali shaxsning ko'rsatilgan huquqlari va qonuniy manfaatlarini buzish. Bunda turli xil usullar, jumladan viruslar, kompyuterning zararli dasturlarini qo'llash va shu orqali akkaunt egalariga tegishli bo'lgan mablag'larni o'g'irlash, ushbu shaxsni obro'sizlantirish, shantaj qilish yoki boshqa noqonuniy harakatlarni amalga oshirish uchun noqonuniy foydalanish;

- shaxsning korporativ moliyaviy-tahliliy, logistika va boshqa kirish cheklangan axborot tizimlaridagi akkauntlariga ruxsatsiz kirish orqali login va parolni buzish yoki

ushlab qolish, shaxsning belgilangan huquqlari va qonuniy manfaatlarini buzish hamda boshqa noqonuniy usullar;

- shaxsning belgilangan huquqlari va qonuniy manfaatlarini elektron imzoni qalbakilastirish orqali buzish (aksariyat mamlakatlarda ushbu usul orqali firibgarlar fuqarolarning bankdagi hisob raqamlaridan pul mablag'larini yechib oladilar, ularning nomlariga kredit rasmiylashtiradilar va boshqa turli xil jinoyatlar sodir etadilar);

- shaxsning belgilangan huquqlari va qonuniy manfaatlarini buzish Internetdagi firibgarlik faoliyati, shu jumladan bank yoki muayyan bir tashkilot nomidan qo'ng'iroq qilib fuqarolarga tegishli bo'lgan muhim ma'lumotlarni so'rash va ushbu usuldan foydalangan holda ularning huquqlarini buzish (ushbu usuldan bugungi kunda mamlakatimizda ko'plab firibgarlar foydalanmoqdalar va aholining aksariyat qismi mazkur holatning qurboniga aylanmoqda);

3) shaxslararo aloqalar doirasida ma'lumotlardan foydalanish va axborot aylanmasi huquqlarini buzish, shaxslararo yozishmalar jarayonida axborot uzatish jarayoni va kanallarini himoya qilish huquqlarining buzilishi:

- shaxsiy elektron pochta qutisi tarkibiga yoki tezkor xabar almashish xizmati tizimining interfeysiga ruxsatsiz kirish va ularni boshqarish orqali ushbu huquqlarni buzish, shu jumladan quyidagi maqsadlarda: elektron pochta manzilini, tezkor xabarlar xizmati tizimidagi manzilni (login) o'g'irlash, elektron pochta orqali yoki tezkor xabar almashish xizmati orqali yuborilgan bir marta yoki tizimli ravishda ko'rish;

- qonun bilan qo'riqlanadigan kompyuter ma'lumotlariga, ya'ni elektron ma'lumot tashuvchi qurilmaga yoki ularning tarmog'idagi ma'lumotlarga ruxsatsiz kirish orqali ushbu huquqlarni buzish (shu jumladan, agar ushbu harakat yo'q qilish, bloklash, o'zgartirish yoki o'zgartirishga olib kelgan bo'lsa). Ushbu harakatlar ma'lumotlarni nusxalash, kompyuterlar, elektron tizimlar yoki ularning tarmoqlari ishini buzish orqali ya'ni, parolni taxmin qilib buzish, himoya va boshqaruv tizimlarini buzish, boshqa usullardan, shu jumladan zararli kompyuter dasturlaridan foydalanish;

4) fuqarolarning shaxsiy hayoti to'g'risidagi ma'lumotlarning daxlsizligi va himoyasi, ularning shaxsiy yoki oilaviy sirini tashkil etuvchi ma'lumotlar, shaxs to'g'risidagi faqat ungagina tegishli bo'lgan ma'lumotlar hamda boshqa shaxsiy ma'lumotlarni himoya qilish, shuningdek uning tasvirini himoya qilish huquqini buzish:

- qonun bilan himoyalangan elektron qurilmadagi ma'lumotlarga ruxsatsiz kirish orqali;

- Internet tarmog'ida fuqaroning shaxsiy hayoti to'g'risidagi ma'lumotlarni, uning shaxsiy yoki oilaviy sirini tashkil etuvchi ma'lumotlarni, shuningdek shaxs to'g'risidagi boshqa sirlarni noqonuniy ravishda tarqatish orqali;

5) ma'lumotlardan foydalanish huquqlarining, shu jumladan tadbirkorlik va qonun bilan taqiqlanmagan boshqa iqtisodiy faoliyat uchun o'z qobiliyatlari va mulkidan erkin foydalanish huquqi, o'z asarlarini nashr etish va o'z ishidan ma'lum bir foyda olish huquqining buzilishi;

6) axborotni tarqatish (shu jumladan uzatish) huquqlarining buzilishi:

- Internet ommaviy axborot vositalarining Internet saytlariga kiberhujumlar (bosma ommaviy axborot vositalarining yoki telekanallarning onlayn versiyalari), shu

jumladan, ushbu Internet saytlarni yo‘q qilish yoki faoliyatining boshqacha tarzda buzilishi yoki materiallarni ruxsatsiz joylashtirish tufayli ommaviy axborot vositalari erkinligiga (masalan, provokatsion maqsadlarda) tajovuz qilish;

- Internet tizimini manipulyatsiya qilish, domen manzillari tizimi va Internet kontentini filtrlash tizimlariga kirish tufayli ommaviy axborot vositalari erkinligiga tajovuz;

- reklama joylashtirilishi kerak bo‘lgan Internet saytlarga kiberhujumlar tufayli uni tarqatish huquqining buzilishi;

7) axborotdan himoyalaniş huquqlarining buzilishi:

- voyaga yetmagan bolalarning jismoniy, ruhiy, ma‘naviy va axloqiy salomatligi hamda rivojlanishiga tahdid soluvchi ma‘lumotlarga, shuningdek, ularning ishonchi va tajribasining yetishmasligidan foydalanish, noqonuniy materiallarni Internet saytlariga joylashtirish va tajovuzkor reklama yoki majburlash orqali (spam va boshqalar orqali) himoya qilish huquqlarini buzish;

- Internet tarmog‘ida fuqarolarning diniy kelib chiqishi, millati yoki irqi bo‘yicha insoniy qadr-qimmatini kamsituvchi, millati yoki irqini tahqirlovchi, ekstremistik xarakterdagi boshqa ma‘lumotlarni joylashtirish orqali axborotdan himoyalaniş huquqlarini buzish; shaxs sha‘nini kamsituvchi va uning shaxs sifatidagi qadr-qimmatini kamsituvchi ma‘lumotlar; tuhmat yoki haqoratni o‘z ichiga olgan ma‘lumotlar; tashkilotning ishbilarmonlik obro‘sigga putur yetkazadigan ma‘lumotlar;

- Internet foydalanuvchilarning ongiga ta‘sir ko‘rsatadigan ma‘lumotlarni Internet tarmog‘ida joylashtirish yoki ularga nisbatan boshqa ruhiy yoki psixologik zo‘ravonlik qilish orqali axborotdan himoyalaniş huquqlarini buzish;

8) axborotni olish va (yoki) uni iste‘mol qilishni rad etish (axborot bilan tanishish) huquqlarining buzilishi:

- axborotni, shu jumladan pochta jo‘natmalari va elektron xabarlarini (spam) oluvchilarni aniqlash vositalaridan foydalangan holda axborotni tarqatishda axborotni olishni rad etish huquqini buzish;

- reklama xarakteridagi ma‘lumotlarni olish yoki undan foydalanishdan bosh tortish huquqini buzish.

Yuqorida axborotga bo‘lgan huquqni tartibga solish va bu borada konstitutsiyaviy huquqni amalga oshirish nuqtayi nazaridan ahamiyatga ega bo‘lgan masalalar tahlil qilindi. Ko‘rinib turibdiki, Internetning o‘ziga xos xususiyatlaridan kelib chiqqan holda, axborotga bo‘lgan konstitutsiyaviy huquqqa muayyan bir tahdidlar mavjud. Tadqiqotchi Internet sohasidagi qonunchilikni, quyidagi yo‘nalishlarda takomillashtirish zarurati mavjud, degan fikrda. Bular:

- kibermakonning umumiy huquqiy rejimini, shu jumladan Internet tuzilmasini va milliy domen zonasini boshqarishni takomillashtirish;

- shaxsiy ma‘lumotlar, fuqarolarning shaxsiy hayoti haqidagi ma‘lumotlar, shu jumladan Internetdagi maxfiy aloqalar xavfsizligini ta‘minlashni takomillashtirish;

- Internet tarmog‘ida moliya-xo‘jalik faoliyatini himoya qilish va Internet tarmog‘idan foydalanish mexanizmlarini takomillashtirish, shu jumladan elektron tijorat, elektron to‘lov tizimlari mexanizmlari va vositalarini takomillashtirish, xavfsizlik va muhofaza tizimini takomillashtirish, elektron imzo mexanizmining ishlashini osonlashtirish;

- saylov tizimini shakllantirish jarayonida Internet tizimining huquqiy tartibga solinishini takomillashtirish;

- odil sudlov, sudlar, shuningdek, boshqa davlat hokimiyati organlari faoliyati to'g'risidagi ma'lumotlardan foydalanish jarayonida Internet tizimini huquqiy tartibga solishni takomillashtirish;

- Internet tarmog'ida va Internet tarmog'i bilan bog'liq huquqbuzarliklar, axborotga bo'lgan konstitutsiyaviy huquqqa noqonuniy tajovuzlar uchun jinoiy va ma'muriy javobgarlik choralari tartibini takomillashtirish.

Ushbu tadqiqot mavzusi va maqsadlarini hisobga olgan holda, ko'rsatilgan huquqlar va qonuniy manfaatlarni himoya qilish bo'yicha qonunchilik sohasidagi mavjud muammolarning yechimlarini topishning o'ziga xos murakkabliklari bo'lib, ularni ko'rsatib o'tish masalaning dolzarbligini belgilaydi.

Tadqiqotchi Internetdan axborot olishni huquqiy jihatdan tartibga solish va amalga oshirish borasidagi muammolarni atroflicha o'rganib tahlil qilgan. Bugungi kunda global tarmoqda axborot almashinuvi doirasida bir qancha muammolar mavjud bo'lib, hozirgi vaqtda Internet tarmog'idagi asosiy muammolar quyidagilardir:

- 1) *Ekstremistik faoliyat bilan bog'liq materiallarni global axborot tarmog'ida tarqatish;*
- 2) *Internetda intellektual mulk huquqlarini himoya qilish bilan bog'liq muammolar;*
- 3) *Tarmoq manziliga (domen nomi) mutlaq huquqlarni huquqiy jihatdan tartibga solish*
- 4) *Shaxsiy ma'lumotlarni himoya qilish;*
- 5) *Internet tarmog'ida elektron tijoratni huquqiy tartibga solish;*
- 6) *Giyohvandlik vositalari va psixotrop moddalarni tashviqot qilish, noqonuniy reklama qilish;*
- 7) *Internetda pornografik materiallarni noqonuniy tarqatish;*
- 8) *Internetda tuhmat;*
- 9) *Internetda firibgarlik.*

Dissertatsiyaning uchinchi bobi "**O'zbekistonda so'z va Internetdan axborot olish huquqini ta'minlashga doir qonun hujjatlarini takomillashtirishning huquqiy yo'nalishlari**" deb nomlanib, ushbu bobda ochiqlik siyosatining so'z erkinligini hamda Internetdan erkin foydalanishni ta'minlashdagi o'rni va roli, shuningdek Internetdan erkin foydalanishni tartibga soluvchi qonunchilikni takomillashtirishning asosiy yo'nalishlari kabi masalalarning tahliliga bag'ishlangan. Dissertant ushbu bobda bir qancha olimlarning qarashlari va izlanishlari natijasida kelgan xulosalarini o'rganib tahlil qilgan. Xususan, I.Rustambekov, J.Abdullayev, A.A.Lukyanova, Ya.N.Zasurskiy, A.Skvorsov, kabi olimlarning izlanishlari va qarashlari chuqur tahlil qilingan.

Ushbu bobda dissertant mamlakatimizda olib borilayotgan ochiqlik siyosati natijasida aholiga berilayotgan keng imkoniyatlar va qabul qilingan huquqiy hujjatlarga to'xtalib o'tgan. Xususan, Prezident tashabbusi bilan olib borilayotgan siyosatning natijasida bugungi kunda dunyo reytinglarida mamlakatimiz so'z erkinligi va axborot erkinligi borasida tobora yuqorilab borayotgani, lekin amalda keng imkoniyatlar berilganiga qaramay hali ham jiddiy kamchiliklar uchrayotganiga

to'xtalib, ushbu kamchiliklarni tahlil qilgan. Izlanish davomida bugungi kunda jamoatchilik orasida keng tarqalgan va ommalashgan ijtimoiy tarmoqlar faoliyatiga to'xtalib, ularning ahamiyati va o'rni keng tahlil qilingan. Shu o'rinda mana shu ijtimoiy tarmoqlarning bloklanishiga to'xtalib o'tilgan. Ushbu tarmoqlarning bloklanishi natijalarini 2 ga ajratib ularning salbiy oqibatlarini (*iqtisodiy ta'sir, ijtimoiy ta'sir*) tahlil qilgan.

Dissertant tomonidan tadqiqot doirasida o'tkazilgan ijtimoiy so'rovnomada ishtirok etgan 600 ga yaqin respondentlarning 91,4% Internetdan har kuni 38,1% esa ijtimoiy tarmoqlardan muntazam foydalanishlarini ta'kidlaganlar. Shuningdek, so'rovnomada ishtirok etgan qatnashchilardan mamlakatimizda Internet tarmog'idagi axborotdan foydalanishni tartibga soluvchi amaldagi qonun va me'yoriy hujjatlarni baholash so'ralganda ishtirokchilarning 55,4% mavjud qonunchilikni qoniqarli deb baholagan bo'lsalar 19,4% amaldagi milliy qonunchiligimizni qoniqarsiz deb hisoblashlarini ta'kidlab o'tganlar. Bundan tashqari so'rovnoma ishtirokchilarning 32% axborotdan foydalanishni tartibga soluvchi qat'iy qonunlar zarur degan javobni berganlar.

Bugunga kelib milliy qonunchilikda qonunlar bilan bir qatorda boshqa ko'plab qonunosti hujjatlari ham qabul qilingan. Lekin ushbu normativ-hujjatlar orasida Internetni kompleks tarzda to'raligicha qamrab olgan holda tartibga soladigan alohida qonun O'zbekistonda mavjud emas.

Umuman olganda xalqaro miqyosda olib qarasak, aksariyat davlatlarda Internet tarmog'i va Internet munosabatlarini huquqiy tartibga soluvchi qonunlar qabul qilinmagan, ammo qonunosti va lokal hujjatlar hamda huquqni qo'llash amaliyoti shakllangan. Ushbu huquqni qo'llash amaliyotlarining asosiy yo'nalishlari shaxsiy ma'lumotlarni saqlash, Internet foydalanuvchilarini identifikatsiyalash tizimlarini joriy etish ishlari amalga oshirilib kelinayotganligida ko'rinadi.

Yuqoridagi misollardan ko'rish mumkinki, bugungi kunda dunyo mamlakatlarida Internet tarmog'i va unda vujudga keladigan ijtimoiy munosabatlarni huquqiy jihatdan tartibga solishga qaratilgan harakatlar mavjud, ushbu harakatlar davom etmoqda, lekin mavjud amaliyot hozircha Internetni kompleks tartibga solishni qamrab olmayotganligini, balki mavjud harakatlar asosan Internetdan foydalanish huquqini muayyan tarzda cheklashni asoslantirish yo'lida davom etayotganligini ko'rish mumkin.

Dissertantning fikricha, Internetni cheklash harakatlariga tanqidiy munosabat bildirilishi kerak. Chunki mazkur holat salbiy oqibatlarga olib keladi. Buni Internetga kirish cheklangan bir qancha davlatlar misolida tadqiqot ishida ko'rib tahlil qilingan. Sababi esa avval munosabatlar to'liq huquqiy tartibga solinishi, ana undan so'ng ushbu munosabatlarni tartibga solish qoidalarini buzgan shaxslarga nisbatan chora ko'rilishi to'g'ri va asosli bo'lib hisoblanadi.

Milliy qonunchilik uchun tadqiq etilayotgan masala nisbatan yangi soha bo'lgani uchun uni G'arb davlatlari qonunchiliklari bilan bevosita solishtirish u qadar to'g'ri bo'lmaydi. Shuning uchun ham ushbu soha qardosh davlatlarda qanday aks etgani e'tiborga loyiq. O'zbekiston qonunchiligi ko'proq qo'shni davlatlar qonunchiliklaridan andoza oladi. Sababi yaqin mentalitet, bir necha yil bir tuzum ostida yashaganlik va boshqalar bunga asos bo'lib xizmat qiladi.

MDH davlatlarida Internetni tartibga solishning bir necha yondashuvlari ishlab chiqilgan. Ushbu masalaga Armaniston, Qirg'iziston va Moldova kabi davlatlar nisbatan liberal munosabatda yondashadilar. Armanistonda axborot resurslariga kirishni cheklashni tartibga soluvchi maxsus huquqiy normalar mavjud emas. Kirishni cheklash sud qarori asosida amalga oshirilishi mumkin. Buning asosi kontentning noqonuniyligi to'g'risidagi sud qarori bo'lishi mumkin. Qirg'izistonda Internet saytlari ommaviy axborot vositalari emas. Ekstremistik axborot materiallarini bloklashga nisbatan davlat tomonidan tartibga solish amalga oshiriladi. Qirg'iziston MDH davlatlarining "Internet tarmog'ini tartibga solish asoslari to'g'risida"gi namunaviy qonuniga qo'shilgan. Shuningdek, 2021 yil 23 avgustda Prezident S. Japarov "Ishonchsiz (yolg'on) axborotdan himoya qilish to'g'risida"gi qonunni imzoladi. Unda Internet foydalanuvchilarini deanonimlashtirish, shuningdek, agar u yerda yolg'on ma'lumotlar e'lon qilingan bo'lsa, sud qarorisiz saytlarni bloklash ko'zda tutilgan. Xususan, qonunning 5-bandida aytilishicha, Internet-provayder, sayt yoki sahifa egasi yolg'on ma'lumotlarga kirishni cheklaydi yoki taqiqlaydi. Shuningdek, Internet-provayderlar umumiy foydalanish nuqtalari egalari "o'z obunachilarini aniqlashlari (ya'ni identifikatsiyalashlari) talab qilinadi. Moldovada qonunchiligiga to'xtalganda, shuni alohida ta'kidlash joizki, ushbu davlat qonunchiligi Yevropa qonunchiligiga anchayin muvofiqlashtirilgan. Moldovaning amaldagi "Matbuot to'g'risida"gi qonuni onlayn OAV, bloglar va an'anaviy media saytlar faoliyatini tartibga solmaydi. Yana bir e'tiborli jihati shundaki Moldovada boshqa MDH davlatlaridan farqli ravishda "Axborot to'g'risida" maxsus qonun yo'q.⁷

MDH mamlakatlarida Internetning davlat va jamiyat hayotidagi o'rni hamda ularning rivojlanish tendensiyalarini tadqiq qilish bizga quyidagilarni ko'rsatdi. MDH mamlakatlari qonun hujjatlarining tahlili ular Internet-siyosatni rivojlantirish jarayonining turli bosqichlarida turgani, ammo barcha mamlakatlar uchun umumiy jihatlar borligini ko'rsatadi. Shundan kelib chiqib, vaziyatni quyidagicha tavsiflash mumkin:

1. *MDH mamlakatlarida "Internet to'g'risida" keng ko'lamli qonun mavjud emas.*

2. *MDHning bir qator mamlakatlarida "Internet" so'zi qonun hujjatlarida hatto tilga olinmagan. Qoida tariqasida, Internetni tartibga solish masalalari konsepsiyalar, strategiyalar, hukumat qarorlari va turli nizomlarda ko'rib chiqiladi.*

3. *Qonun hujjatlarining yo'qligi turli oqibatlariga olib keladi:*

a) *ayrim mamlakatlarda bunday qonun hujjatlarining yo'qligi Internet hukumat aralashuvisiz rivojlanishi uchun imkoniyat yaratadi. Ammo bu holda hukumat istalgan vaqtda Internet ustidan o'z nazoratini o'rnatishga harakat qilishi mumkin;*

b) *boshqa mamlakatlarda Internetni tartibga soladigan qonun hujjatlarining yo'qligi hukumat harakatlari uchun erkinlik beradi, ya'ni nimani ruxsat etish va nimani taqiqlashni amaldorlar o'zboshimchalik bilan hal qiladilar.*

4. *Internet hukumat tomonidan me'yordan ortiq tartibga solinadigan mamlakatlar ham yo'q emas va ularda bo'lg'usi islohotning maqsadi tarmoqni*

⁷ Ushbu qonunlar haqidagi to'liq ma'lumotlar dissertatsiyada keltirib o'tilgan

mazkur cheklashlardan ozod qilishdan iborat.

5. *“Tartibga soluvchi” qonun ayrim mamlakatlarga Internetdan foydalanish sohasida yuzaga keluvchi huquqiy munosabatlarni tartibga solish imkonini beradi.*

6. *Barcha mamlakatlarda Internet “taqdiri” unga bevosita tegishli bo‘lmagan qoidalarga ko‘p jihatdan bog‘liq.*

7. *Internet-bozorni rivojlantirishning eng ta’sirchan vositasi uning o‘zini o‘zi tartibga solishidir. Tarmoqda munosabatlarni tartibga solishning mazkur usuli Internet hamjamiyatning barcha a’zolarini qanoatlantiradigan qoidalarni belgilash va davlat aralashuvini oqilona darajada cheklash imkonini beradi.*

Tadqiqot davomida hech qaysi bir davlatda Internetni kompleks tarzda qamrab oladigan qonun mavjud emasligini ko‘rishimiz mumkin. Ko‘plab mamlakatlarda Internetni tartibga solish masalalari konsepsiyalar, strategiyalar, hukumat qarorlari va turli nizomlarda keltirib o‘tiladi. Ushbu sohani tartibga soluvchi qonun hujjatlarining yo‘qligi esa turli salbiy oqibatlarini keltirib chiqaradi.

Milliy qonunchilik tahlili Internet tarmog‘ini kompleks tartibda qamrab oluvchi maxsus qonun yo‘qligini ko‘rsatdi. Tadqiqotchining fikriga ko‘ra, ana shunday qonun qabul qilinishi Internetni tartibga solish hamda foydalanish imkoniyatlarini, shuningdek axborot olish va tarqatish sohasining rivojiga katta hissa qo‘shadi.

Dissertantning fikricha, agar qonun loyihasi ishlab chiqilsa, ushbu loyihada quyidagi normalar o‘z ifodasini topishi kerak.

1) *Umumiy qoidalar, ya’ni qonunning amal qilish doirasi, foydalaniladigan asosiy atamalar aks etishi lozim. Bunda Internetni tartibga solish jarayonlarining subyektlari ko‘rsatilgan bo‘lishi, barcha tomonlar, xususan davlatlar, foydalanuvchilar, Internet xizmatlari operatorlari ishtirok etishi lozimligi aks etishi kerak.*

2) *Internet bilan bog‘liq huquqiy munosabatlarni tartibga solish prinsiplari o‘z ifodasini topishi kerak. Bunda asosiy jarayonlar va Internetni tartibga solishga qo‘yiladigan talablar belgilangan bo‘lishi, davlatning Internetni rivojlantirish, undan ochiq va cheklovlarsiz foydalanishni ta’minlash bo‘yicha majburiyatlari belgilanishi lozim.*

3) *Internetni tartibga solish jarayonida barcha ishtirokchilarining huquqlari va majburiyatlari, shuningdek Internetni tartibga solishning asosiy yo‘nalishlari belgilangan bo‘lishi kerak. Bundan tashqari Internetni tartibga solish sohasida xalqaro hamkorlik prinsiplari va yo‘nalishlarining belgilanishi esa Internet bilan bog‘liq huquqiy munosabatlarga xos muammolarni hal etadi.*

4) *Nizolarni hal etish va mazkur qonun normalarini buzganlik uchun javobgarlik masalalari aks etishi lozim.*

O‘zbekistan Respublikasida shu kabi qonun normasining qabul qilinishi bir qator ijobiy o‘zgarishlarga olib keladi. Xususan, Internetni boshqarish sohasida asosiy manfaatdor tomonlar, ya’ni davlat, biznes va fuqarolik jamiyatining sherikligi qonun yo‘li bilan mustahkamlanadi. Davlatning Internetni rivojlantirish va undan foydalanishni ta’minlash borasidagi majburiyatlari normativ-huquqiy hujjatda o‘z aksini topadi. Internetni tartibga solishning asosiy yo‘nalishlari, shuningdek asosiy manfaatdor tomonlar, ya’ni davlat, biznes hamda fuqarolik jamiyatining vakolatlari

qonun bilan mustahkamlanib qo'yiladi. Eng asosiysi esa ushbu qonun normalarining har qanday shaklda buzilishi javobgarlik masalasini keltirib chiqarishi o'z aksini topadi.

Internet to'g'risidagi qonun o'zida turli huquq sohaslariga oid normalarni jamlashi kerak. Dissertantning fikricha, ushbu qonun quyidagilarni belgilaydigan qoidalarni o'z ichiga olishi lozim:

1) *Internet tarmog'iga oid jahon hamjamiyati tomonidan umume'tirof etilgan hujjatlarda aks etgan prinsiplarni;*

2) *Internet tarmog'iga oid davlat siyosati asoslarini va milliy qonun hujjatlarining tuzilmasini;*

3) *Internet tarmog'ida vujudga keladigan munosabatlarga qonun hujjatlarini qo'llash prinsiplarini;*

4) *Internet tarmog'ida vujudga keladigan ijtimoiy munosabatlarni tartibga solishning ayrim fundamental prinsiplarini;*

5) *Internet tarmog'i bilan bog'liq muhokama etilishi hamda aniqlik kiritilishi lozim bo'lgan boshqa masalalarni.*

Internet to'g'risidagi qonunning qabul qilinishi xuddi shu masalalarni o'zida mujassam etgan boshqa bir normativ hujjatlar ham qabul qilinishi zaruratini keltirib chiqaradi.

Mazkur hujjatlarning qabul qilinishi natijasida Internet tarmog'idagi vujudga keladigan huquqiy munosabatlarni tartibga solishga qaratilgan normativ hujjatlar tizimi paydo bo'ladi. Ushbu tizimning asosini maxsus (Internet to'g'risida) qonun tashkil qilsa, xuddi shu munosabatlarni tartibga solishda qo'shimcha ravishda normativ-huquqiy hujjatlar tashkil qiladi. Aynan shunday tizim Internetni kompleks tarzda qamrab oladi va axborot olishda vujudga keladigan huquqiy munosabatlarni tartibga soladi.

Tadqiqot davomida milliy qonunchiligimizning tahlili shuni ko'rsatdiki, Internetdan axborot olish va tarqatish borasida vujudga keladigan munosabatlarni tartibga soluvchi aniq bir normativ hujjat yo'q. Bu boradagi munosabatlar, ayniqsa Internet tarmog'ida yuzaga keluvchi munosabatlar doirasiga qo'llash mumkin bo'lgan normalar turli qonun hujjatlarida o'z aksini topgan. Ushbu munosabatlar o'z xususiyatiga ko'ra ko'pgina huquq sohalari bilan uzviy aloqaga kirishadi. Biroq, Internet tarmog'ida vujudga keladigan munosabatlarning o'ziga xos xususiyatlari sabab, mavjud huquq sohaslarining hech biri ularni to'laligicha tartibga sola olmaydi. Shuning uchun ham mazkur munosabatlar alohida, keng ko'lamli huquq sohasi yordamida tartibga solinishi lozim. Buning sababi esa Internetda vujudga keladigan munosabatlar boshqa bir huquq sohalari, xususan, konstitutsiyaviy, fuqarolik, jinoyat, mehnat, soliq, axborot, mualliflik huquqi va hokazolar bilan tartibga solinadigan turli xil masalalarga oid hisoblanadi.

Internetda vujudga keladigan munosabatlar huquq sohaslarining har biriga tegishli doiradagina tartibga solinadi. Shuning uchun ham bir huquq sohasi boshqa bir huquq sohasiga daxldor munosabatlarni tartibga sola olmaydi. Qayd etilganidek, Internetni tartibga solish va unda axborot almashinuvida yuzaga keladigan munosabatlarda xalqaro tajribani o'rganish muhim ahamiyat kasb etadi. Internet sohasini tartibga solish hamda uni rivojlantirish uchun ushbu sohani qamrab oluvchi

xalqaro huquqiy hujjatlar qabul qilish va ularni O‘zbekiston Respublikasi tomonidan ratifikatsiya qilinishi Internet tarmog‘ini hamda Internetda axborot olish va tarqatishda vujudga keladigan munosabatlarni tartibga solishda muhim o‘rin tutadi. Shu kabi huquqiy hujjatlar virtual makonda mavjud bo‘lgan muammolarga o‘z yechimini topishda amaliy yordam berishi kerak.

Mazkur xalqaro hujjatlarda:

- *Internetda vujudga keladigan munosabatlarga nisbatan qo‘llaniladigan asosiy tushunchalar boshqa bir davlatlarning qonun hujjatlarida har xil talqin qilinishining oldini olish uchun belgilab qo‘yilishi;*

- *davlatlar yurisdiksiyasi, shuningdek provayderlarning javobgarligi kabi muhim masalalar hal etilishi;*

- *Internet tarmog‘ida huquqbuzarliklar va jinoyatlarga qarshi xalqaro darajada kurashish;*

- *tarmoq xavfsizligini ta‘minlashning asosiy yo‘nalishlari belgilanishi lozim;*

- *Internetdan erkin foydalanish hamda Internet tarmog‘i xizmatlari operatorlarining faoliyatini asossiz ravishda cheklashga, shu jumladan axborot resurslaridan foydalanish jarayonida diskriminatsion tartibini o‘rnatishga yo‘l qo‘ymaslik shartlari;*

- *xalqaro axborot ayirboshlashdan foydalanish tartibi;*

- *Internetda xizmatlar erkin bozorini rivojlantirish shartlari, monopoliyalashuv va insofsiz raqobatga yo‘l qo‘yilmaligi belgilanishi lozim.*

Internetdan foydalanishda vujudga keladigan munosabatlar, ayniqsa axborot olishdagi mavjud hamda o‘z yechimini topishi lozim bo‘lgan masalalar xalqaro tajribani inobatga olgan holda qabul qilinadigan Internet to‘g‘risidagi qonun bilan tartibga solinishi lozim.

Ushbu qonun qabul qilinishi natijasida Internet tarmog‘idan foydalanish jarayonida vujudga keladigan munosabatlardan kelib chiqadigan majburiyatlarni bajarish, qaysi vaqtdan boshlab bunday majburiyatlar bajarilgan deb hisoblanishini belgilash va ular bajarilganini hujjatlar bilan tasdiqlash masalalari o‘z yechimini topadi.

Dissertantning fikricha, Internet to‘g‘risida qonun qabul qilinsa unda quyidagilar aks etishi lozim:

- *Internetni tartibga solishga qaratilgan xalqaro huquqiy hujjatlarning asosiy qoidalari;*

- *ushbu qonun qabul qilingan xalqaro huquqiy hujjatlarda ko‘rsatilgan asosiy qoidalarni takrorlamaligi;*

- *Internetni tartibga solish sohasida mavjud va yaratiladigan qonun hujjatlarini yanada yaxshi qo‘llash uchun ularga aniqlik kiritishi;*

- *ko‘rsatilgan qonunlar keng ko‘lamli, ya‘ni turli huquq sohalarining normalaridan iborat bo‘lishi;*

- *qonun hujjatlari tuzilmasini o‘z ichiga olishi;*

- *Internet tarmog‘iga oid davlat siyosati asoslarini belgilaydigan qoidalarni o‘zida mujassamlashtirishi lozim.*

XULOSA

“Internetdan axborot olishning konstitutsiyaviy-huquqiy kafolatlari” mavzusida o‘tkazilgan tadqiqot natijasida quyidagi ilmiy-nazariy xulosalar va qonun hujjatlarini takomillashtirishga doir takliflar va tavsiyalar ilgari surildi:

I. Ilmiy-nazariy xulosalar:

1. Amaldagi milliy qonunchiligimizning tahlili shuni ko‘rsatadiki, “Internet” atamasi ko‘plab normativ-huquqiy va qonunosti hujjatlarida qo‘llanilgan. Ba’zi hollarda Internet axborot-kommunikatsiya tarmog‘i, boshqalarida axborot almashinuvining texnik bir vositasi, yana ba’zi birlarida esa ommaviy axborot vositasi sifatida qaralgan. Milliy qonunchiligimizda “Internet” konsepsiyasining huquqiy ta’rifi yo‘q. Faqatgina ushbu axborot-kommunikatsiya tarmog‘ining ayrim xususiyatlari alohida qonunlar va qonunosti hujjatlarida uchraydi. Fuqarolarning Internet tarmog‘ida axborot olish va tarqatish huquqlarini amalga oshirishlari uchun muhim bo‘lgan ushbu hodisaga xos bo‘lgan fundamental funksiyalar va xususiyatlarni hisobga olgan holda “Internet” atamasiga huquqiy ta’rif berish zarur masala hisoblanadi. Amaldagi qonunchilikda “Internet” tushunchasining mazmun-mohiyati to‘liq ochib berilmaganligi hamda olimlar tomonidan ushbu tushunchaga nisbatan aniq huquqiy ta’rif yo‘qligi sababli unga nisbatan quyidagi ta’rif ishlab chiqildi.

“Internet – elektron qurilmalarni bir biri bilan bog‘lagan holda turli platformalar hamda foydalanuvchilar o‘rtasida (rasm, video, matn ko‘rinishdagi) axborot va aloqa almashinuvini ta’minlovchi global raqamli infratuzilma”.

2. Amaldagi qonunchilikda “Axborot” tushunchasining mazmun-mohiyati to‘liq ochib berilmaganligi hamda olimlar tomonidan ushbu tushunchaga nisbatan aniq huquqiy ta’rif yo‘qligi sababli unga nisbatan quyidagi ta’rif ishlab chiqildi.

“Axborot – ma’lum tuzilish va semantik tarkibga ega bo‘lgan holda bilim, fakt, xabar yoki ko‘rsatmalarni yetkazib beruvchi ma’lumot yoki ma’lumotlardir. Axborot qabul qiluvchiga ta’sir qilish, uning holatini yoki xatti-harakatlarini o‘zgartirishga qodir bo‘lgan aloqaning asosiy elementi hisoblanadi. Axborot tushunchasiga uni uzatish, saqlash, qayta ishlash va foydalanish jarayonlari ham kiradi. Zamonaviy dunyoda axborot hayotning ko‘plab sohalarida, jumladan, fan, texnologiya, biznes, ta’lim va jamoatchilik bilan aloqalarda asosiy rol o‘ynaydi”.

3. Milliy qonunchiligimizga bugungi kunda davlat va jamiyat hayotiga katta ta’sir ko‘rsatayotgan hamda Internetda axborot olish va tarqatish masalasida yetakchilik qilayotgan “Ijtimoiy tarmoq” tushunchasiga huquqiy ta’rif berish zarur. Amaldagi qonunchilikda “Ijtimoiy tarmoq” tushunchasining mazmun-mohiyati to‘liq ochib berilmaganligi hamda olimlar tomonidan ushbu tushunchaga nisbatan aniq huquqiy ta’rif yo‘qligi sababli unga nisbatan quyidagi ta’rif ishlab chiqildi.

“Ijtimoiy tarmoq – bu ma’lumot va kontent almashish, muloqot qilish, shuningdek, bir-biri bilan o‘zaro aloqada bo‘lish imkoniyatiga ega bo‘lgan foydalanuvchilarning virtual hamjamiyatlarini yaratish uchun mo‘ljallangan veb-platforma yoki dasturdir. Ijtimoiy tarmoqlarning asosiy maqsadi Internet va zamonaviy axborot texnologiyalaridan foydalangan holda, masofa va vaqtdan

qat'iy nazar, odamlar o'rtasida muloqot va o'zaro munosabatlarni ta'minlashdan iborat".

4. Amaldagi qonunchilikda "Blogger" tushunchasining mazmun-mohiyati to'liq ochib berilmaganligi hamda olimlar tomonidan ushbu tushunchaga nisbatan aniq huquqiy ta'rif yo'qligi sababli unga nisbatan quyidagi ta'rif ishlab chiqildi.

"Blogger – bu ma'lumot berish, ko'ngil ochish, mavzularni muhokama qilish, xabardorlikni oshirish maqsadida blog yoki ijtimoiy media platformalarida maqolalar, postlar, videolar yoki audio materiallar ko'rinishida kontent yaratadigan va nashr etadigan shaxs. Bloggerlar turli mavzularda, jumladan, sayohat, pazandachilik, moda, ta'lim, texnologiya va boshqalar bilan shug'ullanishi mumkin. Ular auditoriya bilan faol muloqotda bo'ladilar, hamjamiyatlarni shakllantiradilar va o'z obunachilarining fikri va afzalliklariga ta'sir ko'rsatadilar".

5. Amaldagi qonunchilikda "Internet etikasi" tushunchasining mazmun-mohiyati to'liq ochib berilmaganligi hamda olimlar tomonidan ushbu tushunchaga nisbatan aniq huquqiy ta'rif yo'qligi sababli unga nisbatan quyidagi ta'rif ishlab chiqildi.

"Internet etikasi – axloqiy va ijtimoiy-madaniy jihatlarni hisobga olgan holda onlayn muhitda foydalanuvchilarning xatti-harakatlarini tartibga soluvchi tamoyillar, qoidalar va qadriyatlar yig'indisidir. Internet etikasi o'z ichiga onlayn muhitda o'zaro hurmat normalarini, shaxsiy ma'lumotlarni himoya qilish, raqamli firibgarlikning oldini olish, kibexavfsizlikni qo'llab-quvvatlash, mualliflik huquqi va kontent qoidalariga rioya qilish standartlarini o'z ichiga oladi".

II. Normativ-huquqiy hujjatlarni takomillashtirishga oid taklif va tavsiyalar

5. Amaldagi qonunchiligimizda "Internet to'g'risida"gi qonun mavjud emasligini inobatga olgan holda tadqiqot ishimizga ilova sifatida "Internetdan foydalanish to'g'risida"gi qonun loyihasi ishlab chiqildi.

6. O'zbekiston Respublikasining 2003-yil 11-dekabrda "Axborotlashtirish to'g'risida"gi Qonunining 3-moddasi to'qqizinchi xatboshisiga quyidagi norma bilan to'ldirish taklif qilinadi:

"Internet – elektron qurilmalarni bir biri bilan bog'lagan holda turli platformalar hamda foydalanuvchilar o'rtasida (rasm, video, matn ko'rinishdagi) axborot va aloqa almashinuvini ta'minlovchi global raqamli infratuzilma".

7. O'zbekiston Respublikasining 2002-yil 12-dekabrda "Axborot erkinligi prinsiplari va kafolatlari to'g'risida"gi Qonunining 3-moddasi ikkinchi xatboshisiga quyidagi tuzatishni kiritish maqsadga muvofiq:

"Axborot – ma'lum tuzilish va semantik tarkibga ega bo'lgan holda bilim, fakt, xabar yoki ko'rsatmalarni yetkazib beruvchi ma'lumot yoki ma'lumotlardir".

8. O'zbekiston Respublikasining 2003-yil 11-dekabrda "Axborotlashtirish to'g'risida"gi Qonunining 3-moddasi sakkizinchi xatboshisiga quyidagi tuzatishni kiritish maqsadga muvofiq:

"Blogger – bu ma'lumot berish, ko'ngil ochish, mavzularni muhokama qilish, xabardorlikni oshirish maqsadida blog yoki ijtimoiy media platformalarida

maqolalar, postlar, videolar yoki audio materiallar ko‘rinishida kontent yaratadigan va nashr etadigan shaxs”.

III. Huquqni qo‘llash amaliyotini takomillashtirishga oid taklif va tavsiyalar:

9. Milliy qonunchiligimizning amalda bo‘lgan normativ-huquqiy hujjatlarida xalqaro hamjamiyat tomonidan tan olingan fuqarolarning Internetdan axborot olish masalalari to‘liq o‘z aksini topmagan. Buning uchun mavjud sohaga doir qonunlarni xalqaro me‘yorlarga ko‘ra qayta ko‘rib chiqish va kerakli o‘zgartish, qo‘shimchalar kiritilishi taklif etiladi.

11. Fuqarolarimiz bugungi kunda Internetdan foydalanishda O‘zbekiston Respublikasining Konstitutsiyasida, shuningdek, umume‘tirof etilgan xalqaro huquq normalarida qat‘iy belgilab qo‘yilgan haq-huquqlarini to‘liq anglab yetmaganlar. Buning uchun lozim darajada dastur ishlab chiqilib soha doirasida targ‘ibot ishlarini olib borish tavsiya etiladi.

12. Bugungi kunda davlat ommaviy axborot vositalari davlat va jamiyat hayotida sodir bo‘layotgan aksariyat voqea-hodisalarni xolisona ommaga oshkor qilmaydi. Buning natijasida jamiyatning axborot erkinligi buziladi. Shuning uchun ham zamonaviy dunyoda erkin ommaviy axborot vositalarining o‘rni beqiyos. Yuqoridagilarni inobatga olgan holda, Internet ommaviy axborot vositalari faoliyatiga to‘sqinlik qilish holatlariga chek qo‘yilishi kerak.

13. Mamlakatimizda ayrim hollarda muayyan bir sohalarga taa‘luqli bo‘lgan saytlarni bloklash holatlari davom etmoqda. Ushbu holat esa Respublika fuqarolarining Konstitutsiyada belgilab qo‘yilgan axborot olishga bo‘lgan haq-huquqlarini chegaralab qo‘ymoqda. Amaldagi qonunchilikka binoan muayyan bir sohalarga oid saytlarni bloklanishiga chek qo‘yilishi kerak.

14. O‘zbekiston Respublikasi qonunchiligida Internetdan axborot olish masalalariga oid normalar juda sayoz holatda. Buning uchun sohaga oid qonun normalarini qayta ko‘rib chiqish maqsadga muvofiq.

15. Ma‘lumki, Internet muayyan bir davlat tomonidan tartibga solinmaydi va nazorat qilinmaydi. Internet xalqaro xarakterga ega va unda ma‘lum bir “markaz” yo‘q. Ana shularni hisobga olgan holda butunjahon Internet tarmog‘ini tartibga solishning uchta muhim yo‘nalishini hisobga olish kerak, ya‘ni: xalqaro, milliy (davlat tomonidan) va tarmoq hamjamiyatlari tomonidan tartibga solinadi. Milliy qonunchiligimizda yuqorida ko‘rsatilgan tartibga solishning uchta yo‘nalishining kombinatsiyasi asosida qabul qilingan normalar asosida butunjahon Internet tarmog‘idan erkin foydalanish, ya‘ni undan ma‘lumot olish va tarqatishga keng imkoniyat berishini hisobga olgan holda normativ-huquqiy hujjatlar qabul qilish taklif etiladi.

16. Milliy qonunchiligimizda amalda bo‘lgan axborot sohasini tartibga soluvchi barcha qonunlar eskirganligi sababli ularni kodekslashtirish, ya‘ni kodeks shakliga keltirish taklif etiladi.

17. Internetdan foydalanishda vujudga keladigan munosabatlar, ayniqsa axborot olishdagi mavjud hamda o‘z yechimini topishi lozim bo‘lgan masalalar xalqaro tajribani inobatga olgan holda qabul qilinadigan Internet to‘g‘risidagi

qonun ishlab chiqilishiga ehtiyoj mavjud.

18. Internet to'g'risidagi qonun qabul qilinishi natijasida Internet tarmog'idan foydalanish jarayonida vujudga keladigan munosabatlardan kelib chiqadigan majburiyatlarni bajarish, qaysi vaqtdan boshlab bunday majburiyatlar bajarilgan deb hisoblanishini belgilash va ular bajarilganini hujjatlar bilan tasdiqlash masalalari o'z yechimini topishi maqsadga muvofiq.

19. Internetda vujudga keladigan ijtimoiy munosabatlarni huquqiy tartibga solishga yo'naltirilgan qonunchilik bazasi tahlil etilgan holda, tegishli huquqiy asoslarning shakllanish bosqichlari va rivojlanish dinamikasini amaliyotga joriy etish lozim.

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AT TASHKENT STATE UNIVERSITY OF LAW**

TASHKENT STATE UNIVERSITY OF LAW

ILKHOMBEKOV JASURBEK ILKHOMBEK UGLI

**CONSTITUTIONAL AND LEGAL GUARANTEES FOR OBTAINING
INFORMATION FROM THE INTERNET**

12.00.02. – Constitutional law. Administrative law.
Finance and customs law

Doctoral (PhD) dissertation abstract on legal sciences

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INTRODUCTION

The actuality and relevance of the dissertation theme. In the world, economy, politics, defense, education, culture and many other areas, as well as all social and political processes, are directly affected by the exchange of information. All this indicates that the modern world today cannot exist without information. In almost all countries of the world, analyzes of the legal aspects of the processes of freedom of speech, freedom of information, and the right to receive and distribute information are constantly being carried out. The norms of the right to freedom of speech are reflected in all international human rights documents, in particular, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the European Convention on Human Rights. In addition, the 2011 UN resolution recognized the right to use the Internet. The UN Human Rights Council also adopted a resolution on equalizing the use of the Internet with basic human rights. Today, despite the rapidly increasing importance of relations related to the activity of the Internet network in the life of the state and society, it remains one of the spheres that are not fully regulated by legal norms. One of the main tasks in this process is to find the necessary measure of legal regulation of these relations. Relations related to obtaining information should be regulated by the norms of constitutional law, as they have a direct impact on the implementation of the constitutional rights of citizens.

In the world today, the field of information and communication is rapidly developing. This development has a direct impact on the process of information exchange. As a hegemonic field in the process of information exchange, the Internet is rapidly expanding its position. So far, societies with an open policy in the field of information are more democratic, strong and developing in harmony with life than societies with restrictions in the field of information and surrounded by the problems of the world. It should be noted that the constitutional right to information is one of the basic rights of a person, and at the same time it manifests itself as an external expression of freedom of speech and freedom of choice of worldview and as their guarantee. According to statistics, as of March 1, 2024, there are 5.35 billion Internet users in the world today. So, now 66% of the world's population has the Internet. As of March 1, 2024, 5.04 billion users are using social networks, which is slightly less than 60% of the world's population. According to statistics, the number of Internet users in Uzbekistan was 12.1 million in 2016, and by the beginning of 2024, it has doubled, i.e. 33.81%, and the Internet coverage of residential areas of our country increased from 28% in 2016 to 98% in 2024.

As a result of the development of the Internet network in Uzbekistan, it is important to improve the existing norms of our national legislation in this field. Our government has been doing positive things in this regard in recent years. In particular, the relevant articles of the newly adopted Constitution of the Republic of Uzbekistan strengthen the rights of our citizens to freedom of speech, to search, receive and distribute information, as well as to use the Internet. It is worth noting that the use of foreign experience and practice in the legal development of the Internet will bring serious progress for the development of the field. After all, our

national legislation lags behind international practice in this area. And this process slows down the development of the national segment of the global network, freedom of speech, the right to access information on the Internet and other constitutional rights and hinders its development. It is well known that the global network has taken the place of traditional mass media as the Internet has now become a space of vast opportunities. This is a global trend adapted to the state of the information environment, the level of legal and information culture of users. After all, legal regulation of mass media activity is a traditional direction for constitutional law.

This thesis research serves to a certain extent in the implementation of the tasks defined in the Laws of the Republic of Uzbekistan “On Mass Media” (2007), “On Guarantees and Freedom of Information” (1997); “On Principles and Guarantees of Freedom of Information” (2002); “On Information” (2003). Presidential decrees and decisions on Uzbekistan “Strategy of actions on the five priority areas of development of the Republic of Uzbekistan in 2017-2021”, approved by the decree of the President of the Republic № PR-4947 dated February 7, 2017; “Development strategy of new Uzbekistan for 2022 – 2026” approved by the decree № PR-60 dated January 28, 2022; “On the establishment of the University of Journalism and Mass Communications of Uzbekistan” approved by the decision № PD-3737 dated May 24, 2018; “Additional decision on ensuring the independence of the mass media and developing the information services of state bodies and organizations” approved by the decision № PD-4366 of June 27, 2019; the decision of the Cabinet of Ministers of the Republic of Uzbekistan “On measures to further improve information security in the global Internet network” approved by the decision № 707 of September 5, 2018 and other legal documents related to the topic.

The relevance of the research on the priority areas of development of science and technologies in the country. This study was prepared within the framework of the development of science and technology of the republic “Priority direction of spiritual-ethical and cultural development of a democratic and legal society, formation of an innovative economy”, dissertation 12.00.02 - Constitutional law. Administrative law. Finance and customs law.

The extent of the study of the research problem. Constitutional-legal guarantees of receiving information from the Internet have not been studied as a special monographic research object in our country within the framework of legal sciences. At the same time, one or another aspect of the research topic was studied in the scientific works of I.Rustambekov, B.Khodjayev, J.Abdullayev, A.Yoldoshev, N.Nugmanov, A.Amanov and other scientists.

Scientific research related to the constitutional and legal guarantees of receiving information from the Internet in the countries of the Commonwealth of Independent States were conducted by N.B.Baranova, A.A.Ishina, A.V.Krotov, T.Sh.Izzatov, T.A.Timerbaev, A.Yu.Prokhorov, Yu.M.Lotman, S.V.Petrovsky, S.Simonovich, G.Yevseev, O.N.Dudko, T.J.Baljirova, A.N.Sheremet, S.V.Malakhov, L.Kupriyanov, N.Kulicheva, B.V.Kristalniy, Yu.M.Nesterov, A.A.Chernov, V.I.Shalak, A.N.Kochetov, L.G.Lapo, M.A.Pogorelova,

A.A.Tedeev, I.M.Rassolov, A.A.Lukyanov, S.V.Mikhailov, Ye.V.Altovsky, A. Malkevich, Ya.N.Zasursky, A.Skvortsov and other scientists.

In foreign countries, Y.Kurbaliyya, E.Gelbstein, S.Baldi, V.Radunovich, K.Myoller, A.Amuru, Ya.Akdeniz and other scientists interpreted the issues related to receiving information from the Internet.

However, the above-mentioned research analysis indicates that the theoretical and practical problems of obtaining information from the Internet have not been separately studied as a complex research work based on the legislation of the Republic of Uzbekistan, as well as international documents related to this field and other regulatory legal documents.

Relation of the dissertation's theme to the scientific-research work of higher education institution where it was implemented. The topic of the dissertation was carried out in accordance with the research plan of the Tashkent State Law University, within the framework of the topic "Implementation of the results obtained on the basis of the theoretical research of the legal practice of developed countries and the positive achievements of foreign countries into the national legislation".

The aim of the research is to develop a scientific-practical conclusion, scientifically based proposals and recommendations on the constitutional and legal guarantees of free access to information from the Internet in the Republic of Uzbekistan.

The tasks of the research:

- to study the legal nature of obtaining information from the Internet;
- to study the legal significant features of the Internet from the point of view of the constitutional right to receive information;
- to identify the limitations that occur when using the Internet and clarify their negative aspects;
- to highlight the importance of the Internet in ensuring the constitutional right to information;
- to analyze the specific features of receiving information from the Internet in the experience of foreign countries;
- to develop proposals and recommendations for determining effective ways to eliminate problems identified in the process of receiving information from the Internet.

The object of the research is the system of constitutional-legal relations that occurs in the process of receiving information from the Internet in Uzbekistan.

The subject of the research is the Constitution, laws, normative legal documents of the Republic of Uzbekistan, as well as the constitutions of foreign countries, the existing problems in the process of obtaining information from the Internet in international documents, statistical data on the issue.

Research methods. Formal-logical, analytical, historical-legal, comparative, analysis, generalization, comparative-legal, logical, statistical, systematic-structural, survey, formal-legal methods of knowledge were used in the research.

Scientific novelty of the research is as follows:

it in order to ensure the principles of equity, freedom, invisibility of privacy in the use of information resources necessity to determine the procedure for obtaining information from information resources by the owner or owner of information in accordance with the requirements established by the legislation was justified;

it was scientifically proved that in order to ensure that individuals make effective use of information, make sound decisions, defend their rights and contribute to the development of the information society, the content of the concept “information resource” database and data bank in electronic form within the information system posted or located for public may include “audio”, “video”, “graphic” and “text information”;

based on international standards and doctrinal views on the legal nature of the electronic form of periodic printing, in order to ensure the legitimacy, reliability and quality of information, the possibility of using information and its safety, it was scientifically substantiated that the electronic form of periodic printing consists of newspapers, magazines, newsletters, bulletins and other periodic printed public;

in order to ensure equality in access to information, to ensure timely access and communication of the necessary information to the public, in order to obtain information about the activities of the public authorities and management bodies of the media, as well as to obtain an answer to the request of officials to organize an interview, the need for decision to answer their request within 7 days was justified.

Practical results of the research include following:

Definitions of authorship were developed for concepts such as “Internet”, “Social network”, “Information”, “Internet ethics”, “Blogger”;

It was justified that the relations that arise in the use of the Internet, especially the issues that exist and need to be solved in obtaining information, should be regulated by the Law on the Internet, adopted taking into account the international experience;

It was explained that as a result of the adoption of the Law on the Internet, the issues of fulfilling the obligations arising from the relations that arise in the process of using the Internet, determining the time from which such obligations are considered fulfilled and confirming their fulfillment with documents will find their solution;

The “social” and “economic” effects of the blocking of social networks, that is, the negative consequences arising in this case, were scientifically justified;

The legal basis for the legal regulation of social relations arising on the Internet was analyzed, and the stages of formation of the relevant legal frameworks and the dynamics of development that should be put into practice were scientifically proved.

As a result of the research, a draft law on the use of the Internet was developed and submitted to the Institute of Parliamentary Research under the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan.

Reliability of research results. The results of the research are summarized and formalized with relevant documents based on international law and national legal norms, the experience of developed countries, the practice of law

enforcement, questionnaires, statistical data analysis. Based on the experience of developed countries and mutual analysis of national legislation, conclusions, proposals and recommendations were approved, and their results were published in leading national and foreign publications. The obtained results were approved by the competent state bodies and put into practice.

The scientific and practical significance of the results of the research.

The scientific significance of the research results lies in the scientific research on the issues of obtaining information from the Internet from scientific and theoretical conclusions, proposals and recommendations in it, the interpretation of relevant norms of legislation, the improvement of national legislation and the teaching and further enrichment of such subjects as “Constitutional law”, “Comparative constitutional law”, “State and Law theory”, as well as, it is determined by the fact that methodological materials for special courses can also be used in the development, preparation of curricula, teaching aids and scientific activities.

The practical significance of the research results is that, from these results, our national legislation in addition and in making amendments to the parts of the current norms that are associated with obtaining information on the Internet, and it is determined by the fact that it can be used in improving regulatory legal documents and law enforcement practices, as well as in training seminars and trainings, in the preparation of educational and methodological manuals.

The implementation of the research results. Based on the scientific results of the research in the field of improving the provision of the right to receive information from the Internet:

The proposal regarding the need for the owner or owner of information resources to determine the procedure for obtaining information from information resources in compliance with the requirements established by law is embodied in the Law of the Republic of Uzbekistan “On Information” (Certificate №. 02-08-372 dated October 13, 2023 of the Institute of Parliamentary Research under the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan). The consideration of this proposal served to determine the procedure for obtaining information from information resources by the owner or owner of information resources, not by legal documents, but by observing the requirements established by legislation;

The proposal that concept of “information resource” is information in electronic form within the information system, data bank, database, including “audio”, “video”, “graphic” and “text information” that is placed or published in information systems in an open form is expressed in the Law “On Information” (Certificate № 02-08-372 dated October 13, 2023 of the Institute of Parliamentary Research under the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan). Taking this proposal into account served to ensure that the information resource consists not only of information in electronic form, data bank, database, but also “audio”, “video”, “graphic” and “textual information” that is placed or published in information systems in an open form. ;

The proposal that the electronic form of a periodical is newspapers, magazines, newsletters, bulletins and other periodicals written on information-carrying bodies, as well as placed on the Internet global information network, intended for use with the help of electronic technical devices, Law of the Republic of Uzbekistan “On Mass Media” 351 (Certificate № 02-08-372 dated October 13, 2023 of the Institute of Parliamentary Research under the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan). This proposal served to legal regulation of receiving information from the Internet and the constitutional-legal research of the obligations of state bodies and officials in this regard;

The proposal regarding the need for the mass media to receive information about the activities of state power and management bodies, as well as the request to organize an interview of officials within seven days at most, is expressed in Article 27 of the Law of the Republic of Uzbekistan “On Mass Media” (Certificate № 02-08-372 dated October 13, 2023 of the Institute of Parliamentary Research under the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan). This proposal served to legally regulate issues related to the freedom of information and the activities of state authorities and management bodies of mass media, as well as the organization of interviews of officials.

Approbation of the results of the research. The results of this research were tested at 8 scientific conferences, including 2 international, 6 national scientific-practical conferences, roundtable discussions and seminars.

Publication of the research results. According to the results of this research, a total of 14 scientific works were published, including 6 in scientific journals (2 in foreign publications) and 8 scientific articles in collections.

The structure and volume of the dissertation. The composition of the dissertation consists of an introduction, three chapters containing eight paragraphs, a conclusion, a list of used literature, and appendices. The volume of the dissertation is 155 pages.

THE MAIN CONTENT OF THE DISSERTATION

In the introductory part of the dissertation, the relevance and necessity of the research topic, its dependence on the main priority directions of the development of science and technology of the republic, the level of research of the problem, the connection of the topic with the scientific research work of the higher educational institution where the dissertation is being carried out, its goals and tasks, object and subject, methods, scientific novelty and practical results, reliability of research results, scientific and practical significance, implementation, approval, publication of results, volume and structure of the dissertation are given.

The first chapter of the dissertation is called “**Constitutional-legal nature of receiving and distributing information**”, it contains theoretical-legal views and modern trends in understanding information, stages of development of constitutional guarantees of the right to receive and disseminate information, the impact of the development of information technologies on the right to receive information and receiving information and the role of the distribution right in the

system of human rights and freedoms is scientifically and theoretically analyzed.

In the first chapter, the concept of “information” was discussed in detail, and the author analyzed in detail the views of scientists on information in order to understand it more widely. In particular, the views of a number of scientists on information have been analyzed in detail due to the fact that they are different. A number of scientists N.B.Baranova, A.A.Ishina, A.V.Krotov, T.A.Timerbaev, S.V.Malakhov, A.Yu.Prokhorov, Yu.M.Lotman, T.J.Baljirova, A.N.Sheremet, T.Sh.Izzatov about “information” were analyzed, and among them N.B.Baranova and A.A.Ishina's thoughts about information are very deep and vital. After all, based on the analysis of these scientists, the author concluded that *“Information is an important component of human communication, its reliability serves as the basis of equal and effective relations between people, information transmitted by people to each other at the current stage of human development creates favorable conditions for the development of the individual and the whole society. It is also the content of information, information or knowledge about any phenomenon of the material and non-material world interpreted by the user of information based on his goals, tasks that he has set before himself and needs to be solved, and the level of knowledge in the field of information used”*.

Analyzing the opinions of scientists during the research, the author came to the conclusion that *“the right to receive information should be considered a natural right, and this phenomenon managed to become an integral right in the 21st century.”*

In the scientific work, the author touched upon the development trends of the right to receive information from the Internet today and analyzed in detail the stages of its development throughout the world and in the history of our country, starting from ancient times. During this analysis, the opinions of a number of foreign scientists were analyzed. In particular, the scientific views of scientists such as V.V.Maklakov, Alexis de Tocqueville, V.I.Shalak, A.A.Tedeev about the appearance of today’s information space are discussed.

The author calls the 21st century the revolutionary age of information, based on the unprecedented volume of information transmission, speed of information and the development of new technologies. Discusses the evolution of communication, including the invention of the telegraph and the rotary printing press (1847), the telephone (1870), the radio (1895), the wireless telegraph (1922), and television (1930). In 1946, the radiotelephone system was created in St. Louis (USA). Emphasizing that the basis of the research work is social relations in the virtual world, the creation of the Internet (1986) was one of the most important events in the history of mankind.

The researcher emphasizes that the Internet, as an information and communication network, has been formed as a phenomenon that has taken an important place in our daily life, society and life today. It was believed that the improvement of the information and technical equipment of economic forces, the modernization of the state management system, and the introduction of information processes into the most diverse spheres of public life led to the rapid integration of increasingly advanced information technologies in the daily life of citizens.

Because the research conducted by the US government showed that the Internet was developing rapidly. In particular, it was emphasized that it took 30 years for radio, 13 years for television, and only 4 years for the Internet to have an audience of 50 million.

A comprehensive study of the content and nature of the Internet within the framework of the study of the constitutional right of citizens to information allows the researcher to identify several functions of the global network. These tasks:

- *a virtual space that provides opportunities to exercise the powers included in the content of the constitutional right of citizens to information;*

- *a special platform for various public relations related to the implementation of the constitutional right of citizens to receive information;*

- *a means of exercising various powers included in the content of citizens' constitutional right to information (use of information, use of information for their own needs, distribution, copying and transmission of information, sending information that meets predetermined criteria to their addresses, etc.);*

- *a platform with a risk of violation of citizens' constitutional right to information and their right to personal data;*

- *means of public control over the activities of state authorities, local state authorities, organizations and institutions;*

- *as we know, public control is one of the main pillars of democracy, so the development of the Internet serves as a great impetus for the development of a democratic-legal state and civil society.*

It was thought that these tasks reveal the role and importance of the Internet, its place in the life of the state, society, and people.

The dissertation focuses on the fact that the constitutions of a number of foreign countries (Georgia, Azerbaijan, Mexico, Germany and Turkey) include issues of freedom of speech and information, as well as the right to use the Internet, and that citizens' use of these rights is ensured at the level of the state constitutions, and the right to use these rights is a fundamental human right in our national constitution. gave a legal assessment instead of quality.

During the research, the activities of such organizations as ***EuroDIG, IGF, IFLA, Blue Ribbon Campaign for Online Free Speech, American Civil Liberties Union, Electronic Frontiers Australia, Electronic Frontiers Canada, Electronic Frontier Foundation, Internet Society, Global Internet Liberty Campaign*** which have their place in the Internet world, were studied and analyzed.

During the study, the positive aspects of the international regulation of the Internet were analyzed and they are as follows:

- *the possibility of open and free communication on the problems of Internet management, including the issues of ensuring freedom of speech and the right to use information in the Internet space, which are not determined by the legislation or ideology of certain countries;*

- *“participatory approach”, that is, the involvement of many participants in decision-making: authorities, international, intergovernmental and non-governmental organizations, scientific and expert communities, and other representatives of civil society who are facing problems of Internet management in*

practice;

- *unbiased, more comprehensive and evidence-based analysis of Internet governance issues;*

- *rules adopted at the international level reveal the legal nature of the state to the Internet;*

- *taking into account fundamental documents on human rights adopted at the level of the UN and regional international organizations when making decisions.*

According to the researcher, the weaknesses of international regulation of the Internet are:

- *in most cases, the decisions of international organizations are advisory in nature, which does not allow us to hope that they will be adopted by all jurisdictions at the national level. But international agreements signed and ratified between states are an exception;*

- *not all national jurisdictions, i.e. countries, accept certain international norms and principles of Internet regulation;*

- *since most of the norms and principles of regulation of the Internet network proposed by the above-mentioned international organizations are of an ethical nature, their perception requires a very high legal (information) culture from the country;*

- *from the point of view of many international non-governmental and intergovernmental organizations (Reporters Without Borders, IFLA, etc.), any attempt to regulate the Internet is considered as an illegal installation of censorship on the Internet. As a result, this situation is automatically assessed as a violation of the right to freedom of speech and access to information.*

The second chapter of the dissertation is entitled **“Constitutional-legal issues of the implementation of the right to information on the Internet”**. In it, the constitutional-legal analysis of legal relations in the Internet space, the importance of the Internet in ensuring the constitutional right to information, the problems of legal regulation and implementation of obtaining information from the Internet are studied.

Legal experts do not have a single point of view on the legal nature of the Internet. There are different views and definitions of the global network. As part of the scientific work, the researcher got acquainted with the views of scientists on this issue. The dissertation researched the Internet world, which is considered the main link of the virtual space, and analyzed the conclusions of several scientists' views and researches about this space. In particular, V.A.Kopilov, I.M.Rassolov, A.A.Lukyanova, S.V.Petrovsky, V.A.Ostreykovsky, S.V.Malakhov, V.I.Shalak, S.V.Mikhailov, A.N.Sheremet, Y.Kurbaliyya, A.A.Tedeev, Yu.Melnikov and A.Terenin, Ye.V.Altovsky researches and views of scientists were thoroughly analyzed.

During the research, it was concluded that although the opinions of scientists about the Internet are different, their conclusions are similar. Their research serves to reveal the essence of the legal relations that arise in the acquisition and distribution of information on the Internet.

The analysis of legal relations in the global network showed that they should

be understood by dividing them *into legal relations related to the Internet and legal relations mediated by the Internet*.

From a legal point of view, the researcher analyzed the legal relations in the Internet sphere, dividing them into **two** main directions. In turn, this direction describes, among other features, the specific features of the legal regulation in the area under discussion:

1) *Legal relations related to the Internet, related to it or its activity, as well as other resources of its activity, access to the Internet, creation, modernization, reorganization, termination of Internet resources, various services and other services on the Internet (in whole or in part) or through the Internet advertising, offering and consumption of benefits;*

2) *Internet-mediated legal relations with respect to information, that is, legal relations in which the Internet functions only as an environment mediating these relations.*

The research work analyzed problems such as the right to information, its free use, and legal relations on the Internet. The analysis of legal relations on the Internet showed that the legal regulation of this direction is an urgent issue. The main issue here is to determine the organization that implements the legal regulation of the Internet. The researcher came to the conclusion that it would be correct to regulate this industry by the state. In his opinion, the state is the body with the right to legally regulate the Internet. In this process, the state considers not only the right to regulate the industry, but also the obligation to do so.

Studies show that government control of the Internet globally, especially in developed countries, increases its effectiveness. In this area, the most effective method of state management (including legal regulation) in information and telecommunication relations, including Internet management, is the combined (joint) imperative-dispositive method made it possible to conclude that the realized forms prevail.

The scope of the powers of the state and non-state actors in this process is significantly more appropriate for democracies. But these powers are not so suitable for countries that pursue an authoritarian policy and seek to control the Internet as much as possible.

The analysis of law enforcement practices related to the Internet allows to researcher conclude that the main semantic dominant and most important in terms of relevance are (in the broadest sense) the general (most common) features of legal regulation and law enforcement. By researcher's opinion we can consider the environment that affects law enforcement agencies, the difficulty of identifying evidence, the identification of crime scenes, the identification of perpetrators, etc., as characteristics of the Internet as a public relations tool. The characteristics of the Internet that have a significant impact on its legal regulation are more related to the first of the two directions indicated above, that is, to the legal relations of the Internet and the operation of certain aspects of its activities or resources. This includes access to the Internet, creation, modernization, reorganization, termination, alienation of Internet resources, advertising on the Internet or (in whole or in part) using the Internet, provision of various services, consumption and

other benefits.

A multifaceted analysis of the content and nature of the Internet in the analysis of the constitutional right to information allows the researcher to come to the conclusion that the Internet today is characterized by the following aspects from a constitutional legal point of view:

- *a global intangible universal good closely related to the concept of information and corresponding to the elements of the constitutional right to information;*

- *the environment of personal, collective, inter-state, international, intra-system, inter-institutional, including inter-community and interpersonal relations related to the implementation of the constitutional right to information and carried out through the medium of information;*

- *a unique environment for the implementation of guaranteed rights for entrepreneurship and other economic activities not prohibited by law (e-commerce, electronic money, Internet payment systems, etc.);*

- *the right to access information, the right to have information, the right to use information, the right to distribute (including copying and transmission) rights, as well as a set of rights to send information to specific recipients of information as a guarantee and means of exercising the right to information, an information space consisting of other components of the comprehensive right to use information in the framework of interpersonal relations, as well as information in connection with the Internet;*

- *the risk of violation of the constitutional right to information on a number of elements and the specific environment of new threats;*

- *a means of public control over the activities of state administration bodies, local government bodies, organizations, institutions, etc. (by exercising the right to receive information);*

In addition, it should be emphasized that the emergence of the Internet, its rapid development, increasing universality and large-scale penetration into people's lives led to the emergence of new information rights that complement the constitutional right to information.

Among these new rights, first of all, the right to access the Internet should be highlighted. After all, this right is the reason for the development of society and the satisfaction of the need of citizens of a certain country for freedom of speech. That is why the strengthening of this right by normative legal documents serves its implementation in life without any obstacles.

There are the origins of threats to the constitutional right to information and the negative legal consequences of the implementation of these threats. These threats manifest themselves as elements of the constitutional right to information in the form of a comprehensive overview of violated rights, based on the specific characteristics of the Internet. These are the following:

- 1) *violation of the right to use information:*

- *violation of data access rights due to illegal denial of Internet services;*

- *violation of data access rights due to theft of logins and passwords;*

- *violation of data access rights due to theft of login and passwords providing*

access to paid databases;

- violation of access rights due to failure of the computer system and its software - password guessing, violation of security and administrative systems, use of other methods, including use of malicious computer programs;

- violation of data access rights by manipulation of the search direction, that is, manipulation of the Internet system, access to the domain address system, and Internet content filtering systems;

2) violation of the right to identification and authorization in order to unlawfully encroach on the economic and other legal interests of a person:

- violation of specified rights and legal interests of a person by unauthorized access to account numbers in payment systems of this person by hacking or withholding login and password (electronic money systems, electronic payments, banking services, etc.). This includes various methods, including the use of viruses, malicious computer programs, and thereby illegally using them to steal funds belonging to account holders, discredit this person, blackmail or perform other illegal actions;

- hacking or intercepting login and password by unauthorized access to a person's accounts in corporate financial-analytical, logistics and other access-restricted information systems, violating the established rights and legal interests of a person, and other illegal methods;

- violation of the established rights and legal interests of a person by forging an electronic signature (in most countries, by this method, fraudsters withdraw money from citizens' bank accounts, issue loans in their names, and commit various other crimes);

- violation of the established rights and legal interests of a person. Fraudulent activities on the Internet, including calling on behalf of a bank or a specific organization and asking for important information belonging to citizens and using this method to violate their rights (this method is used by many fraudsters in our country today, and the majority of the population becoming a victim of the situation);

3) violation of the rights to the use of information and circulation of information within the framework of interpersonal relations, violation of the rights to protect the process and channels of information transmission during interpersonal correspondence;

- violation of these rights by unauthorized access to the content of a personal e-mail box or the interface of the instant messaging service system and their management, including for the following purposes: stealing an e-mail address, an address (login) in the instant messaging service system, using an e-mail or instant messaging service one-time or systematic viewing sent via;

- violation of these rights by unauthorized access to computer data protected by law, i.e. electronic data storage device or data on their network (including if this action leads to destruction, blocking, modification or modification). These actions include copying data, tampering with computers, electronic systems or their networks, i.e. guessing passwords, breaking protection and control systems, using other methods, including malicious computer programs;

4) *Violation of the right to privacy and protection of information about citizens' personal life, information constituting their personal or family secret, information about a person that belongs only to him and other personal information, as well as the right to protect his image:*

- *by unauthorized access to information on an electronic device protected by law;*

- *by illegally distributing information about a citizen's personal life, information constituting his personal or family secret, as well as other personal secrets on the Internet;*

5) *violation of the rights to use information, including the right to freely use one's skills and property for entrepreneurship and other economic activities not prohibited by law, to publish one's works and to receive certain benefits from one's work;*

6) *violation of the rights to distribute information (including transmission):*

- *violation of media freedom (for example, for provocative purposes) due to cyber-attacks on the Internet sites of Internet media (online versions of print media or TV channels), including the destruction of these Internet sites or other disruption of their activity, or unauthorized posting of materials;*

- *infringement of media freedom due to manipulation of Internet system, access to domain address system and Internet content filtering systems;*

- *violation of the right to distribute advertising due to cyber-attacks on Internet sites where advertising should be placed;*

7) *violation of information protection rights:*

- *violating the rights of minors to use information that threatens their physical, mental, spiritual and moral health and development, as well as their lack of confidence and experience, posting illegal materials on Internet sites and aggressive advertising or coercion (through spam, etc.);*

- *violation of the right to information protection by placing on the Internet the information that degrades the human dignity of citizens based on their religious origin, nationality or race, insults their nationality or race, and other information of an extremist nature; information that degrades a person's honor and dignity as a person; information that contains defamation or abuse; information that harms the business reputation of the organization;*

- *violating the rights to information protection by placing information on the Internet that affects the minds of Internet users or causing other mental or psychological violence against them;*

8) *violation of the right to receive information and (or) to refuse to consume it (get acquainted with information):*

- *violation of the right to refuse to receive information when disseminating information, including by means of identification of recipients of mail and electronic messages (spam);*

- *violation of the right to receive advertising information or refuse to use it.*

Above, important issues were analyzed from the point of view of regulation of the right to information and implementation of the constitutional right in this regard. It is clear that due to the specific characteristics of the Internet, there are

certain threats to the constitutional right to information. The researcher believes that there is a need to improve the Internet legislation in the following directions. These are:

- *improvement of the general legal regime of cyberspace, including the management of the Internet structure and the national domain zone;*
- *improvement of security of personal data, information about private life of citizens, including confidential communications on the Internet;*
- *improvement of mechanisms for protecting financial and economic activities on the Internet and using the Internet, including improving the mechanisms and tools of electronic commerce, electronic payment systems, improving the security and protection system, facilitating the operation of the electronic signature mechanism;*
- *improving the legal regulation of the Internet system in the process of forming the electoral system;*
- *improvement of the legal regulation of the Internet system in the process of using information about the activities of justice, courts, and other state authorities;*
- *improvement of the procedure for criminal and administrative liability measures for violations on the Internet and related to the Internet, illegal encroachments on the constitutional right to information.*

Taking into account the topic and goals of this research, there are specific difficulties in finding solutions to the existing problems in the field of legislation on the protection of the specified rights and legal interests, and their presentation determines the relevance of the issue.

The researcher thoroughly studied and analyzed the problems related to the legal regulation and implementation of obtaining information from the Internet. Today, there are a number of problems within the framework of information exchange in the global network, and the main problems in the Internet today are:

- 1) *dissemination of materials related to extremist activities in the global information network;*
- 2) *problems related to the protection of intellectual property rights on the Internet;*
- 3) *legal regulation of exclusive rights to a network address (domain name).*
- 4) *personal data protection;*
- 5) *legal regulation of electronic commerce on the Internet;*
- 6) *promotion of narcotic drugs and psychotropic substances, illegal advertising;*
- 7) *illegal distribution of pornographic materials on the Internet;*
- 8) *defamation on the Internet;*
- 9) *Internet fraud.*

The third chapter of the dissertation is called **“Legal directions for improving legislation on ensuring the right to speech and information from the Internet in Uzbekistan.”** This chapter is devoted to the analysis of such issues as the role and role of openness policy in ensuring freedom of speech and free use of the Internet, as well as the main directions of improving the legislation regulating free use of the Internet. In this chapter, the dissertation examines and

analyzes the views and conclusions of several scientists. In particular, the researches and views of scientists such as I.Rustambekov, J.Abdullayev, A.A.Lukyanova, Ya.N.Zasursky, A.Skvorsov were deeply analyzed.

In this chapter, the dissertation writer touched on the broad opportunities given to the population as a result of the openness policy in our country and the adopted legal documents. In particular, as a result of the policy initiated by the President, today the country's freedom of speech and information freedom is increasing in the world rankings, but in practice, despite the wide opportunities given, there are still serious shortcomings, and he analyzed these shortcomings. During the research, the activities of social networks, which are widespread and popular among the public today, have been touched upon, and their importance and role have been extensively analyzed. At this point, the blocking of these social networks is discussed. He divided the results of the blocking of these networks into 2 and analyzed their negative consequences (*economic impact, social impact*).

91.4% of about 600 respondents who took part in a social survey conducted by the dissertation researcher stated that they use the Internet every day and 38.1% regularly use social networks. Also, when the participants who took part in the survey were asked to evaluate the current laws and regulatory documents regulating the use of information on the Internet in our country 55.4% of the participants rated the current legislation as satisfactory while 19.4% stated that they consider the current national legislation to be unsatisfactory. In addition, 32% of the survey participants answered that strict laws regulating the use of information are necessary.

To date, national legislation has adopted laws as well as many other legal documents. But among these normative documents, there is no separate law in Uzbekistan that regulates the Internet in a comprehensive way.

In general, at the international level, most countries have not adopted laws regulating the legal regulation of the Internet network and Internet relations, but legislation and local documents and the practice of law enforcement have been formed. The main directions of implementation of this right can be seen in the implementation of personal data storage and Internet user identification systems.

It can be seen from the above examples that today in the countries of the world there are actions aimed at legal regulation of the Internet network and the social relations that arise in it. These actions continue, but the existing practice does not cover the comprehensive regulation of the Internet, but the existing actions mainly limit the right to use the Internet in a certain way justifying the restricting its actions.

According to the dissertation, efforts to limit the Internet should be criticized. Because this situation leads to negative consequences. This was discussed in this dissertation in the case of several countries with limited access to the Internet. The reason is that it is correct and reasonable to first fully regulate relations legally, and then to take measures against those who violate the rules of regulation of these relations.

As the researched issue for national legislation is a relatively new field, it will not be so correct to directly compare it with the legislation of Western countries.

That is why it is worth noting how this industry is reflected in sister countries. The legislation of Uzbekistan takes a model from the legislation of neighboring countries. The reason is close mentality, living under the same regime for several years and others.

Several approaches to regulating the Internet have been developed in the CIS countries. Countries such as Armenia, Kyrgyzstan and Moldova approach this issue relatively liberally. There are no special legal norms regulating the restriction of access to information resources in Armenia. Access can be restricted by court order. This may be based on a court decision that the content is illegal. Internet sites are not mass media in Kyrgyzstan. Blocking of extremist information materials is regulated by the state. Kyrgyzstan joined the model law of the CIS countries “On the fundamentals of regulation of the Internet network”. Also, on August 23, 2021, President S. Japarov signed the law “On protection from unreliable (false) information”. It provides for the de-anonymization of Internet users, as well as the blocking of sites without a court order if false information is published there. In particular, paragraph 5 of the law states that the Internet provider, site or page owner restricts or prohibits access to false information. Also, Internet service providers are required to “identify” their subscribers. When it comes to the legislation of Moldova, it is worth noting that the legislation of this country is closely aligned with the European legislation. Moldova's current Press Law does not regulate online media, blogs, and traditional media sites. Another important point is that unlike other CIS countries, Moldova does not have a special law “On Information”.

The study of the role of Internet in the life of the state and society in the CIS countries and their development trends showed us the following. The analysis of the legal documents of the CIS countries shows that they are at different stages of the Internet policy development process, but there are common aspects for all countries. Based on this, the situation can be described as follows:

1. *There is no comprehensive law “On the Internet” in the CIS countries.*
2. *In a number of CIS countries, the word “Internet” is not even mentioned in legal documents. As a rule, Internet regulation issues are addressed in concepts, strategies, government decisions and various regulations.*
3. *The absence of legal documents leads to various consequences:*
 - a) *The lack of such legislation in some countries creates an opportunity for the Internet to develop without government intervention. But in this case, the government can try to control the Internet at any time;*
 - b) *In other countries, the absence of laws regulating the Internet gives freedom for government actions, that is, officials decide arbitrarily what to allow and what to prohibit.*
4. *There are many countries where the Internet is over-regulated by the government, and the goal of future reforms in them is to free the network from these restrictions.*
5. *“Regulatory” law allows some countries to regulate legal relations arising in the field of Internet use.*
6. *In all countries, the “fate” of the Internet depends to a large extent on*

regulations that are not directly related to it.

7. The most effective tool for the development of the Internet market is its self-regulation. This method of regulating relations on the network allows to establish rules that satisfy all members of the Internet community and to limit government intervention to a reasonable level.

During the research, we can see that no country has a law that comprehensively covers the Internet. In many countries, Internet regulation issues are addressed in concepts, strategies, government decisions and various regulations. The lack of legal documents regulating this area causes various negative consequences.

The analysis of national legislation showed that there is no special law comprehensively covering the Internet. According to the researcher, the adoption of such a law will greatly contribute to the development of the regulation and use of the Internet, as well as the development of the field of information acquisition and distribution.

According to the dissertation, if a draft law is developed, the following norms should be expressed in this draft.

1) The general rules, that is, the scope of the law, the main terms used should be reflected. In this, the subjects of Internet regulation processes should be indicated, and it should be reflected that all parties, in particular, states, users, operators of Internet services should participate.

2) The principles of regulation of legal relations related to the Internet should be expressed. In this, the main processes and requirements for the regulation of the Internet should be defined, the obligations of the state to develop the Internet and ensure its open and unrestricted use should be defined.

3) The rights and obligations of all participants in the process of Internet regulation, as well as the main directions of Internet regulation, should be defined. In addition, the determination of the principles and directions of international cooperation in the field of Internet regulation will solve the problems specific to legal relations related to the Internet.

4) Issues of dispute resolution and liability for violation of the provisions of this law should be reflected.

The adoption of such a law in the Republic of Uzbekistan will lead to a number of positive changes. In particular, the partnership of the main stakeholders in the field of Internet governance, that is, the state, business and civil society, will be strengthened by law. The obligations of the state to develop the Internet and ensure its use are reflected in the regulatory legal document. The main areas of regulation of the Internet, as well as the powers of the main interested parties, that is, the state, business and civil society, will be strengthened by law. The most important thing is that the violation of the norms of this law in any form creates the issue of responsibility.

The law on the Internet should include norms related to various legal fields. In the opinion of the researcher, this law should include the following provisions:

1) the principles reflected in the documents generally recognized by the world community regarding the Internet;

2) *the foundations of the state policy and the structure of national legislation regarding the Internet;*

3) *the principles of application of legal documents to relations that arise on the Internet;*

4) *some fundamental principles of regulating social relations that arise on the Internet;*

5) *other issues that need to be discussed and clarified in connection with the Internet network.*

The adoption of the law on the Internet creates the need for the adoption of other normative documents that include these issues.

As a result of the adoption of these documents, a system of regulatory documents aimed at regulating legal relations arising on the Internet will appear. The basis of this system is a special law (on the Internet), and regulatory legal documents are additionally used to regulate the same relations. It is such a system that comprehensively covers the Internet and regulates the legal relations that arise in the acquisition of information.

During the research, the analysis of our national legislation showed that there is no specific normative document that regulates the relations that arise regarding the acquisition and distribution of information from the Internet. The relations in this regard, especially the norms that can be applied to the framework of relations arising on the Internet, are reflected in various legal documents. These relationships, by their very nature, are inextricably linked with many areas of law. However, due to the specific characteristics of the relations that arise on the Internet, none of the existing legal fields can fully regulate them. That is why these relations should be regulated with the help of a separate, large-scale field of law. The reason for this is that the relations that arise on the Internet are related to various issues regulated by other areas of law, in particular, constitutional, civil, criminal, labor, tax, information, copyright, etc.

Relationships that arise on the Internet are regulated only within the scope of each of the legal fields. That is why one field of law cannot regulate relations involving another field of law. As mentioned, it is important to study the international experience in the regulation of the Internet and the relations that arise in the exchange of information. Adoption of international legal documents covering this field and their ratification by the Republic of Uzbekistan for the regulation and development of the Internet sector play an important role in the regulation of the Internet network and the relations that arise in obtaining and distributing information on the Internet. Such legal documents should provide practical assistance in finding solutions to the problems that exist in the virtual space.

In these international documents:

- *to define the basic concepts used in relation to the relations that arise on the Internet in order to prevent different interpretations in the legal documents of other countries;*

- *solving important issues such as the jurisdiction of states, as well as the responsibility of providers;*

- *fight against violations and crimes on the Internet at the international level;*
- *the main directions of ensuring network security should be determined;*
- *the conditions of not allowing the free use of the Internet and the activity of operators of Internet search services, including the establishment of a discriminatory procedure in the process of using information resources;*
- *procedure for using international information exchange;*
- *the conditions for the development of the free market of services on the Internet, the prohibition of monopolization and unfair competition should be determined.*

The relations that arise in the use of the Internet, especially the issues that exist and need to be resolved in obtaining information, should be regulated by the Law on the Internet, adopted taking into account the international experience.

As a result of the adoption of this law, the issues of fulfilling the obligations arising from the relations that arise in the process of using the Internet, defining the time from which such obligations are considered to be fulfilled and confirming their fulfillment with documents will be solved.

According to the dissertation, if the law on the Internet is adopted, it should reflect the following:

- *basic provisions of international legal documents aimed at regulating the Internet;*
- *this law does not repeat the main rules specified in the adopted international legal documents;*
- *clarification of existing and future legal documents in the field of Internet regulation for better application;*
- *the specified laws are broad in scope, i.e. they consist of norms of various legal fields;*
- *to include the structure of legal documents;*
- *it should incorporate the rules defining the foundations of the state policy regarding the Internet.*

CONCLUSION

As a result of the research conducted on the topic “Constitutional-legal guarantees of obtaining information from the Internet”, the following scientific-theoretical conclusions and proposals and recommendations for improving legal documents were put forward:

I. Scientific and theoretical conclusions:

1. The analysis of our current national legislation shows that the term “Internet” is used in many regulatory and statutory documents. In some cases, the Internet is considered as an information and communication network, in others as a technical means of information exchange, and in others as a mass media. There is no legal definition of the concept of “Internet” in our national legislation. Only some features of this information and communication network are found in separate laws and regulations. It is necessary to provide a legal definition of the term “Internet”, taking into account the fundamental functions and characteristics

of this phenomenon, which are important for citizens to exercise their rights to receive and distribute information on the Internet. Due to the fact that the concept of “Internet” is not fully disclosed in the current legislation and there is no clear legal definition of this concept by scientists, the following definition was developed in relation to it.

“The Internet is a global digital infrastructure that provides information and communication exchange (in the form of images, video, text) between different platforms and users by connecting electronic devices to each other.”

2. Due to the fact that the meaning of the concept of “Information” is not fully disclosed in the current legislation and there is no clear legal definition of this concept by scientists, the following definition was developed in relation to it.

“Information is information or data that conveys knowledge, facts, messages, or instructions with a specific structure and semantic content. Information is the main element of communication capable of influencing the recipient, changing his state or behavior. The concept of information includes the processes of its transmission, storage, processing and use. In today’s world, information plays a central role in many areas of life, including science, technology, business, education, and public relations.”

3. It is necessary to give a legal definition to the concept of “Social Network”, which today has a great influence on the life of the state and society and is a leader in the issue of receiving and distributing information on the Internet. Due to the fact that the concept of “Social network” is not fully disclosed in the current legislation and there is no clear legal definition of this concept by scientists, the following definition was developed in relation to it.

“A social network is a web platform or software designed to create virtual communities of users who can share information and content, communicate, and interact with each other. The main purpose of social networks is to ensure communication and interaction between people, regardless of distance and time, using the Internet and modern information technologies.”

4. Due to the fact that the meaning of the concept of “Blogger” is not fully disclosed in the current legislation and there is no clear legal definition of this concept by scientists, the following definition was developed in relation to it.

“A blogger is a person who creates and publishes content in the form of articles, posts, videos or audio material on a blog or social media platform to inform, entertain, discuss topics, or raise awareness. Bloggers can cover a variety of topics, including travel, cooking, fashion, education, technology, and more. They actively engage with audiences, build communities, and influence the opinions and preferences of their subscribers.”

5. Due to the fact that the concept of “Internet ethics” is not fully disclosed in the current legislation and there is no clear legal definition of this concept by scientists, the following definition was developed in relation to it.

“Internet ethics is a set of principles, rules and values that regulate the behavior of users in the online environment, taking into account moral and socio-cultural aspects. Internet ethics includes norms of mutual respect in the online environment, protection of personal information, prevention of digital fraud,

promotion of cyber security, standards of compliance with copyright and content regulations.”

II. Suggestions and recommendations for improving regulatory and legal documents:

5. Taking into account that there is no law “On the Internet” in our current legislation, a draft law “On Internet Use” was developed as an appendix to our research work.

6. The ninth paragraph of Article 3 of the Law of the Republic of Uzbekistan dated December 11, 2003 "On Information" is proposed to be supplemented with the following norm:

“The Internet is a global digital infrastructure that provides information and communication exchange (in the form of images, video, text) between different platforms and users by connecting electronic devices to each other.”

7. It is appropriate to make the following amendment to the second paragraph of Article 3 of the Law of the Republic of Uzbekistan dated December 12, 2002 “On Principles and Guarantees of Freedom of Information”:

“Information is information or data that conveys knowledge, facts, messages, or instructions with a specific structure and semantic content.”

8. It is appropriate to introduce the following amendment to the eighth paragraph of Article 3 of the Law of the Republic of Uzbekistan “On Information” dated December 11, 2003:

“A blogger is a person who creates and publishes content in the form of articles, posts, videos, or audio material on blogs or social media platforms to inform, entertain, discuss topics, or raise awareness.”

III. Suggestions and recommendations for improving law enforcement practice:

9. The issues of obtaining information from the Internet of citizens, recognized by the international community, are not fully reflected in the current normative legal documents of our national legislation. For this purpose, it is proposed to review the laws in the existing field according to international standards and make the necessary changes and additions.

11. Today, our citizens do not fully understand their rights to use the Internet, which are strictly defined in the Constitution of the Republic of Uzbekistan, as well as in generally recognized international legal norms. For this purpose, it is recommended to develop a proper program and carry out promotional activities within the field.

12. Today, the state mass media do not impartially reveal to the public most of the events taking place in the life of the state and society. As a result, freedom of information of the society is violated. That is why the role of free mass media in the modern world is incomparable. Taking into account the above, it is necessary to put an end to the cases of obstruction of the activities of the Internet mass media.

13. In our country, in some cases, there are still cases of blocking sites related to certain sectors. This situation limits the rights of the citizens of the Republic to

receive information stipulated in the Constitution. According to the current legislation, the blocking of sites related to certain areas should be stopped.

14. In the legislation of the Republic of Uzbekistan, the norms regarding the issues of obtaining information from the Internet are very shallow. For this purpose, it is appropriate to revise the legal norms related to the field.

15. It is known that the Internet is not regulated and controlled by a particular country. The Internet is international in nature and has no specific “center”. With this in mind, it is necessary to consider three important areas of regulation of the global Internet network: international, national (by the state), and regulated by network communities. In our national legislation, it is proposed to adopt normative legal documents, taking into account that it provides a wide opportunity to freely use the global Internet network, that is, to obtain and distribute information, based on the norms adopted on the basis of the combination of the three directions of regulation indicated above.

16. Due to the fact that all the laws regulating the field of information in force in our national legislation are outdated, it is proposed to codify them, i.e. to bring them into the form of a code.

17. There is a need to develop a law on the Internet that takes into account the international experience of the relations that arise in the use of the Internet, especially the issues that exist and need to be solved in obtaining information.

18. As a result of the adoption of the law on the Internet, it is desirable to find a solution to the issues of fulfilling the obligations arising from the relations that arise in the process of using the Internet, defining the time from which such obligations are considered fulfilled and confirming their fulfillment with documents.

19. Analyzing the legal basis for the legal regulation of social relations arising on the Internet, it is necessary to put into practice the stages of formation of the relevant legal frameworks and the dynamics of development.

**НАУЧНЫЙ СОВЕТ DSc.07/30.12.2019.Yu.22.02 ПО ПРИСУЖДЕНИЮ
УЧЁНЫХ СТЕПЕНЕЙ ПРИ ТАШКЕНТСКОМ ГОСУДАРСТВЕННОМ
ЮРИДИЧЕСКОМ УНИВЕРСИТЕТЕ**

**ТАШКЕНТСКИЙ ГОСУДАРСТВЕННЫЙ ЮРИДИЧЕСКИЙ
УНИВЕРСИТЕТ**

ИЛХОМБЕКОВ ЖАСУРБЕК ИЛХОМБЕК УГЛИ

**КОНСТИТУЦИОННО-ПРАВОВЫЕ ГАРАНТИИ ПОЛУЧЕНИЯ
ИНФОРМАЦИИ ИЗ ИНТЕРНЕТА**

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Республики Узбекистан**

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С диссертацией можно ознакомиться в Центре информационных ресурсов Ташкентского государственного юридического университета (зарегистрированный под номером 1198) (Адрес: 100047, г. Ташкент, улица Амира Темура, 13. Тел.: (99871) 233-66-36).

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ВВЕДЕНИЕ (аннотация диссертации доктора философии (PhD))

Цель исследования разработать научно-практическое заключение, научно обоснованные предложения и рекомендации по конституционно-правовым гарантиям свободного доступа к информации из сети Интернет в Республике Узбекистан.

Объектом исследования является система конституционно-правовых отношений, возникающая в процессе получения информации из сети Интернет в Узбекистане.

Научная новизна исследования заключается в следующем:

необходимость определения собственником или собственником информационных ресурсов порядка получения информации из информационных ресурсов с соблюдением требований, установленных законодательством;

понятие «информационный ресурс» определяется как информация в электронной форме в пределах информационной системы, банка данных, базы данных, в том числе «аудио», «видео», «графическая» и «текстовая информация», размещаемая или публикуемая в открытом виде, в информационных системах;

обосновано, что электронной формой периодических изданий являются газеты, журналы, информационные бюллетени и другие периодические издания, написанные на носителях информации, а также размещенные в глобальной информационной сети «Интернет», предназначенные для использования с помощью электронных технических средств;

Обосновано, что запрос средств массовой информации о получении информации о деятельности органов государственной власти и управления, а также об организации интервью должностных лиц должен быть рассмотрен в течение максимум семи дней.

Внедрение результатов исследований. На основе научных результатов исследований в области совершенствования обеспечения права на получение информации из сети Интернет:

Предложение о необходимости определения собственником или собственником информационных ресурсов порядка получения информации из информационных ресурсов с соблюдением требований, установленных законодательством, отражено в Законе Республики Узбекистан «Об информатизации» (Акт № 02-08-372 от 13 октября 2023 года Института парламентских исследований при Законодательной палате Олий Мажлиса Республики Узбекистан). Рассмотрение данного предложения послужило определению порядка получения информации из информационных ресурсов собственником или собственником информационных ресурсов не посредством юридических документов, а с соблюдением требований, установленных законодательством;

Понятие «информационный ресурс» - это информация в электронной форме в составе информационной системы, банка данных, базы данных, включающая «аудио», «видео» и «текстовую информацию», размещаемую

или публикуемую в информационных системах в открытом доступе отражено в Законе «Об информатизации» (Акт № 02-08-372 от 13 октября 2023 года Института парламентских исследований при Законодательной палате Олий Мажлиса Республики Узбекистан). Учет этого предложения послужил тому, чтобы информационный ресурс состоял не только из информации в электронном виде, банка данных, базы данных, но и из «аудио», «видео», «графической» и «текстовой информации», размещаемой или публикуемой в информационные системы в открытой форме;

Предложение о том, что электронной формой периодического издания являются газеты, журналы, информационные бюллетени и другие периодические издания, записанные на устройствах носителя информации, а также размещаемые в глобальной информационной сети «Интернет», предназначенные для использования с помощью электронных технических средств, Закон Республики Узбекистан «О средствах массовой информации» (Акт № 02-08-372 от 13 октября 2023 года Института исследований Парламента при Законодательной палате Олий Мажлиса Республики Узбекистан). Данное предложение послужило правовому регулированию получения информации из сети Интернет и конституционно-правовому исследованию обязанностей государственных органов и должностных лиц в этой связи;

Предложение о необходимости получения средствами массовой информации информации о деятельности органов государственной власти и управления, а также требование организовать интервью должностных лиц в срок не более семи дней выражено в статье 27 Закона Республики Узбекистана «О средствах массовой информации» (Акт № 02-08-372 от 13 октября 2023 года Института исследований Парламента при Законодательной палате Олий Мажлиса Республики Узбекистан). Данное предложение послужило законодательному регулированию вопросов, связанных со свободой информации и деятельностью органов государственной власти и управления средствами массовой информации, а также организацией интервью должностных лиц.

Структура и объем диссертации. Диссертация состоит из введения, трех глав, состоящих из восьми параграфов, заключения, списка использованной литературы и приложений. Объем диссертации составляет 155 страниц.

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

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