



ORGANIZATIONAL AND LEGAL BASIS FOR THE PROTECTION OF PERSONAL LIFE, PERSONAL AND FAMILY SECRETS OF CITIZENS IN UZBEKISTAN

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| Article history: | Abstract: |
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| Received: May 28 th 2022 Accepted: June 28 th 2022 Published: August 2 nd 2022 | The following article analyzes the theoretical and practical essence and importance of privacy. As well as that the author points out main issues in this sphere. Besides that, laws on privacy in the experience of Uzbekistan is discussed. |

Keywords: privacy, constitutional rights to privacy, personal life, personal and family secrets, secrecy, personal data.

Currently, in the system of legal sciences all over the world, various problematic issues related to the definition and strengthening of the concepts of "personal life", "privacy of private life" in legislation. The proposed definitions, this right is defined as a person and a citizen who has a certain independence from the state and society, who can freely dispose of information about himself and his actions, personal and family secrets, and personal information that cannot be used without the will of the person. personal information space, confidentiality of communications, as well as the protection of these powers can be formulated as a right under state guarantees.

The first privacy in Uzbek legislation was reflected in the constitution of the UzSSR adopted on February 14, 1937, including the chapter on the rights and obligations of the first citizens. The Constitution defines personal rights and freedoms such as privacy (Article 126), privacy of housing and privacy of correspondence (Article 127). [1]

It should be noted that the constitution of February 14, 1937 was adopted on the basis of the constitution of the Soviet Union Republics of 1936. Theoretically, this is a serious achievement of Uzbek legislation, but practically, it was just a formality. [2]

According to Russian scientist I.M. Khujokova, "the norms of the Soviet Union Constitution of 1936 meant that the right of habeas corpus was created"[3]

In my view, although the norms of inviolability were adopted in the Soviet Union and reflected in the constitution of the USSR, the effect of observing the principles of socialistic organization of the state a but right to privacy is not fully recognized. During the former Soviet Union, not all components of the right to privacy were guaranteed, including privacy of home and correspondence, but other privacy rights were

denied. As an example, it should be noted that the privacy of private property is not guaranteed.

In 1976, the International Covenant on Civil and Political Rights of December 19, 1966 was added to the Soviet Union. [4] Taking into account that this document is also presented in relation to the UzSSR, according to its article 17, it is established that it is not allowed to arbitrarily or illegally interfere with the personal and family life of anyone, but every person can arbitrarily or illegally violate the privacy of housing or has the right to legal protection from interference or attacks resulting from illegal attacks on his honor and dignity.

The objective features of the development of the right to privacy in the Uzbek SSR were the main reasons for expanding the scope of personal rights in the 1978 Constitution of the Uzbek SSR.[5] For the first time in the history of the Soviet Union, a basic norm stipulated that the privacy of citizens, correspondence, telephone conversations and telegraphic messages should be protected by law.

In my opinion, it is obvious that the international standards in the field of human rights are not fully taken into account in the Constitution of 1978, besides, the mechanism of implementation of the norms given in the Constitution and legal guarantees are not provided.

It should be noted that the Constitution of the Uzbek SSR of 1978 contained norms similar to the Constitution of the Former Union of 1977 appeared in its text.

In 1992, the Constitution of the Republic of Uzbekistan was adopted, which ensures the inviolability of personal life. According to its Article 27, "Everyone has the right to be protected from attacks on his honor and reputation, from interference in his private life, and to the inviolability of his residence. No



one can enter someone's residence, search it or inspect it, reveal the secret of correspondence and telephone conversations, except in the cases and procedures provided for by the law. The study of the legislation and law enforcement practice of Uzbekistan shows that this basic norm of the Constitution of Uzbekistan, as a rule, has a nominal value,[6] in our opinion "personal privacy", "interference in personal life", "privacy of residence", "personal" and "family" secrets not fully implemented due to the lack of network legislation that unifies or more precisely defines the concepts.

After the adoption of the Constitution of the Republic of Uzbekistan, the norms for the protection of personal life were not quickly reflected in other legal documents, which created difficulties for the protection of "inviolability of personal life", because the origin of these difficulties is considered to be both subjective and objective.

The specific nature of "privacy" makes it difficult to give a definite definition that is complete and acceptable in all cases. In this regard, some scholars believe that it is easier to regulate "Privacy" through litigation than through law.[7]

We should note that the practice of judicial precedent is not the source of the legislation of Uzbekistan, as well as the lack of definitions of "private life", "personal" and "family" secrets in the legislation of Uzbekistan did not create a full opportunity for the development of the institution of privacy.

In my opinion, the development of the right to privacy has become an object of legal research in recent years. Therefore, it is necessary to emphasize the legal documents aimed at the privacy of "personal life", "personal" and "family" secrets.

In my opinion, the right of every person to make a moral and moral assessment of his qualities is subjective if we consider it as a personal right of a person. Therefore, the value and reputation of each person may or may not be compatible with the social opinion in the society. However, the dignity of a person is a criterion of a person's internal self-evaluation and the criteria that are interconnected with the society's assessment of him.

We must emphasize that the honor and dignity of a person in every society has legal and social importance and must be protected by law.

Including the Civil Code of the Republic of Uzbekistan Article 100 states that "a citizen has the right to request a denial of information that harms his honor, dignity or business reputation, provided that the person who disseminated such information cannot prove that it is true." [8]

Professor H. Rakhmonkulov believes that "damaging information is the disparagement of the honor and dignity of a citizen in the public opinion or

in the opinion of individuals. The objective criteria for the recognition by the court that the distributed information has a damaging nature are the applicable legal norms, principles of universal and professional ethics, and traditions of business dealings.[9]

Another Uzbek scientist, professor Sh.Saydullaev believes that "in addition to rejecting this information, a citizen who has been damaged in honor and dignity, as a result of its distribution, can impose a requirement to compensate for damage and moral damage to himself, thereby assessing the actions of intentional humiliation of honor and dignity of citizens as an administrative offense or a crime" [10]

In the scientific studies of the above scientists, neither the legal documents nor the concepts of "personal privacy", "non-disclosure of personal information" and "family" secrets were expressed.

If we studied the works of foreign scientists such as, Zabudko Yu.S commented on this issue, "it creates many conditions and conditions for interference in private life and violation of the right to privacy by the state by state authorities and local self-government bodies and many public associations.[11]

Article 100 of the Civil Code of the Republic of Uzbekistan defines "protection of reputation, dignity and business reputation" and proves once again the relevance of issues related to personal life, personal and family secrets and identification of its content in the norms of civil law legislation.

Russian scientist I.B Grigoriev analyzed two main approaches to determining the personal life of each individual.[12] In particular, according to the scientist V.P.Ivansky's scientific work defines the general concept of private life as the sphere of personal relationships of a person, in which he is free from the interference of the state, society, other persons, and the formation of which is carried out by the general process of the emergence and development of the ideas of human rights, the rule of law and civil society, and this is a "positive feature" [13]. The second approach is based on the "negative characteristic": according to it, the characteristics of a person that are not relevant to his personal life in society are noted.

In turn, one of the western researchers, A. Lukas,[14] stated that the sphere of personal life covers the following: 1) personality (character) of the individual; 2) family life; 3) labor activity; 4) health; 5) a person's communication with other people, including through digital technological means; 6) sex life.

According to another western researcher A. More[15], personal life includes the circle of informal communication, relationships with certain professions (lawyers, doctors, notaries, etc.), the real inner world of a person (personality, recreation, hobbies, habits),



family relationships, expressed opinions about the inclusion of religious beliefs.

The above points show that scientists and legal documents do not have a clear and unanimous definition of the concept of "personal life". In addition, it should be noted that foreign and domestic scientists do not separate the concepts of "personal" and "private life" inviolability, as well as the concepts of "family secrets".

In my perspective, after studying the works of foreign and local scientists, the legal documents of the Republic of Uzbekistan and international documents aimed at protecting human rights and freedoms, we should divide the protection of "privacy" and "personal and family secrets" into two categories: his work, lifestyle and professional activity, and the second, direct personal data of the person.

In my view, the object of the constitutional right to privacy, personal and family secrets is divided into two groups - the first with activities, the second with personal information.

The practice of applying the law confirms that the question of determining the content of these concepts is always a problem. Therefore, in order to introduce and develop a new personal "concept of inviolability of life" in the legislation of the Republic of Uzbekistan, to protect the constitutional right of a citizen to personal and family secrets, and to form the practice of applying the single right, we have developed our author's definitions as follows:

"personal life information" - a message and information about a person's personal, lifestyle, scope of social activities, as well as personal information received within the scope of this activity.

"information containing personal secrets" - any information (messages, information) that constitutes or describes a person's inner experience, feelings, hobbies, habits, health, and personal information that others do not want to know;

"information constituting a family secret" - information about a person's spouse, motherhood, fatherhood, minor children, including adopted children's joint life, as well as custody and sponsorship must be kept secret.

According to M. Kh. Rustambaev, one of our local scientists, "privacy can be information constituting a personal or family secret that cannot be disclosed without the consent of the subject." [16] However, personal and family secrets are not described in detail in the scientific works carried out by the scientist.

In addition, when we study the existing legal documents, we do not find any definition of personal or family secret. However, Article 153 of the Family Code of the Republic of Uzbekistan states that "Confidentiality of adoption is protected by law." [17]

In belief that the information about the adoption is a family secret because it is part of the information that constitutes a family secret.

The Law of the Republic of Uzbekistan on "Principles and Guarantees of Freedom of Information" stipulates that "personal information relating to individuals is classified as classified information" [18] But it is appropriate to determine the scope of personal data that ensures privacy.

According to Russian scientist V.G. Romanovsky [19], the inviolability of personal life was free from interference and aggression of the state, society or person, who independently defined the way of life protected by law as an inalienable right of the individual to self-determination.

It seems to us that the definition of the right to personal inviolability cannot be approached in one way or another, assuming the above. Since it is a complex legal institution that contains the norms of constitutional, civil, labor, family, administrative, criminal law, aspects that regulate the inviolability of personal life, it should be noted that its content reflects all the mentioned parties.

It is advisable to approach the protection of an individual from arbitrary interference in his personal life, disclosure of personal and family secrets as a state-guaranteed right.

Analysis of the work of Uzbek and foreign scientists only confirms the problematic issues raised by us in this study.

An analysis of its provisions in the constellations of foreign countries shows that, as a rule, it is allowed to limit the right to personal immunity on the basis of the law and (or) a court decision.

Based on the constitutional guarantees of a person's personal life, personal secrets, and the fact that it is not allowed to distribute information about his personal life without his consent, these personal secrets should be protected by the state. If we compare the protection of secrets with other secrets, for example, the league "bank secret consists of information protected by the bank" [20] is defined. Everyone is guaranteed by the bank to protect the information about their bank accounts and bank deposits, as well as other bank secret information. [21]

Therefore, based on the constitutional guarantees of personal and family secrets that ensure the inviolability of personal life, as well as the fact that information about a person's personal life cannot be interfered with and distributed without his consent, not only everyone can have information about his bank accounts and bank deposits, but also other information, in particular, tax secrets, insurance



secrets, medical, legal, notarial secrets and other information should also be kept secret.[22]

Summarizing the nature of the above cases, a number of conclusions can be drawn.

Firstly, the analysis shows that, taking into account the specific features of international agreements, as well as the historical, political, socio-cultural development of our country, the legal experience and judicial practice of foreign countries, primarily of the continental legal system, in the Republic of Uzbekistan, personal privacy, personal and indicates that it had a significant impact on the process of formation and development of the right to family secrets.

Constitution of the Republic of Uzbekistan, Article 27, should be added right to privacy, in particular, "It is prohibited to collect, store, use and distribute information about a person's personal life without his consent, as well as conduct surveillance, video and photo recording, voice recording and other similar actions against him. implementation is not allowed, with the exception of cases established by law."

Secondly, the study of legislation and law enforcement practice of Uzbekistan shows that the concepts of "private life", "personal" and "family" secrets do not have a full meaning due to the absence of legislation that unifies or defines them more clearly.

On this basis, in order to develop and develop legislation of the Republic of Uzbekistan, to protect the right of citizens to privacy, personal and family secrets, and to form the practice of applying the single right, the author created "information about personal life", "information containing personal secrets" and "the concepts of "information containing a family secret" were developed.

Thirdly, the lack of a unified approach to establishing special legal regimes for restricted information for the legislation of Uzbekistan, the use of different terms and definitions for the same objects, and the lack of qualitative study of the compliance of the draft legislation with the current legislation remain one of the urgent issues. In particular, serious efforts are being made to unify the provisions of the legislation regulating various aspects of the constitutional right to personal privacy, personal and family secrets.

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