



STAGES OF DEVELOPMENT OF THE CONSTITUTIONAL GUARANTEES OF THE RIGHT TO PRIVACY IN UZBEKISTAN.

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Article history:	Abstract:
Received: December 10 th 2022	In this article the main directions of the impact of digitalization of society on the development of constitutional law are analyzed. It consists of a comprehensive analysis of stages of development of the constitutional guarantees of the right to privacy in Uzbekistan, as well as an analysis of the legal basis and specific aspects of the legal regulation of digitization in foreign countries, and to present proposals for improving the legislation of Uzbekistan on privacy.
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Currently, in the system of legal sciences all over the world, they are considering various problematic issues related to the definition and strengthening of the concepts of "private life", "privacy of private life" in legislation. Summarizing the proposed definitions, this right is a person and citizen who has a certain independence from the state and society, who can freely determine his own behavior, who can freely dispose of himself and his actions, personal and family secrets, personal information that cannot be used without the person's will. personal information space, confidentiality of communications, as well as the protection of these powers can be formulated as a right under state guarantees.

The initial privacy in legislation was first reflected in Uzbek legislation in the Constitution of the UZSSR adopted on February 14, 1937, including a 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 All-Union Soviet republics of 1936. Theoretically, this is a serious achievement of Uzbek legislation, but practically, it was just a formality. [2]

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

In our opinion, 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 socialist organization of the state and society explains that this right is not fully recognized. During the former 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 Uzbek SSR, 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 violate the privacy of housing arbitrarily or illegally 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. 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. [5]

In our 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, in addition, the mechanism of implementation of the norms given in the Constitution and legal guarantees are not provided.

It should be noted that the 1978 Constitution of the Uzbek SSR contains norms similar to the 1977 Constitution of the Former Soviet Union.

In 1992, the Constitution of the Republic of Uzbekistan, which provides for the inviolability of personal life, was adopted. According to its Article 27, "Everyone has the right to be protected from attacks on his honor and reputation, from interference in his



personal 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 procedure provided by the law"[6]. 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, in our opinion "personal privacy", "interference in private 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 legal proceedings than through legislation. [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 our 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 our 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 the person. Therefore, the value and reputation of each person may or may not be compatible with the social opinion in the society. However, the value of a person is a criterion of internal self-evaluation of a person and criteria that are interconnected with the assessment of society.

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, in Article 100 of the Civil Code of the Republic of Uzbekistan, "a citizen has the right to demand 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] defined.

According to academician of the Academy of Sciences of the Republic of Uzbekistan, doctor of legal sciences, professor H. Rakhmonkulov, "Degrading information is the disparagement of the honor and dignity of a citizen in the public opinion or in the opinion of individuals. Current legal norms, principles of general human and professional ethics, and traditions of business conduct serve as an objective criterion for the recognition by the court that the distributed information has a damaging nature" [9]

Also, according to another Uzbek scientist Professor Sh. evaluates acts of intentional harassment as an administrative offense or a crime" [10]

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

If we studied the works of foreign scientists in this place, Zabudko Yu. S commented on this issue, "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 stipulates "Protection of honor, dignity and business reputation", and this norm once again emphasizes the relevance of issues related to the protection of private life, personal and family secrets and determining their content in the norms of civil law legislation. proves.

Russian scientist I.B. Grigorev[12] in his scientific work analyzed two main approaches to determine the personal life of each person. In particular, according to the scientist V.P. The scientific work of Ivansky [13] defines the general concept of personal 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 this is carried out in the general process of the emergence and development of the ideas of human rights, the rule of law, and civil society . considered it a "positive feature".

The second approach is based on the "negative characteristic": according to it, the characteristics of a person's personal life that are not related to his activity in society are recorded. The ideas put forward by Maleina [14] were analyzed, the information related to the personal life of a certain person that is not related to his professional activities and his character, appearance, health, financial situation, family situation, lifestyle, relationships with relatives, friends, etc. did

In addition to the above, it is appropriate for us to study the concept of personal life in a different



context with the features mentioned by other scientists. Another Russian scientist M.V. Baglay private life is considered one of the specific aspects of a person, and since it is a part of a person's freedom, it means that he does not want to be interfered with by other people and that others do not want others to know his secrets, as well as the unique "sovereignty" of the person, which means the inviolability of his "environment"[15].

In turn, one of the western researchers A. Lukas [16] stated that the scope of personal life includes: 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 [17], 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). , expressed opinions about the inclusion of family ties, 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 our opinion, 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 individual.

In our opinion, 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 privacy" 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, social activities, as well as personal information received within the scope of these activities.

"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, "inviolability of personal life can be information constituting a personal or family secret that cannot be disclosed without the consent of the subject" [18]. 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." [19]

In our opinion, information about adoption is considered a family secret, since 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 included in the category of confidential information" [20]. But it is appropriate to determine the scope of personal data that ensures privacy.

According to Russian scientist V. G. Romanovsky [21], privacy is defined as the inalienable right of a person to independently determine a way of life protected by law, free from interference and aggression of the state, society or individual.

In our opinion, if we analyze the above, the definition of the right to personal privacy cannot be approached unilaterally. Since it is a complex legal institution that includes constitutional, civil, labor, family, administrative, and criminal law norms, its content should reflect all the mentioned parties.

Protection against arbitrary interference in a person's private life, disclosure of personal and family secrets should be treated as a right guaranteed by the state.

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

An analysis of the provisions of the constitutions of foreign countries shows that, as a rule, it is allowed to limit the right to privacy on the basis of the law and (or) 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. Protection of secrets is defined in comparison with other secrets, for example, "bank secret consists of information protected by the bank"[22]. Everyone is guaranteed by the bank to protect the information about their bank accounts and bank deposits, as well as other bank secret information.

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, information constituting insurance secrets, medical, legal, notary secrets, etc. should also be kept secret.

At the same time, the lack of a unified approach to the establishment of special legal regimes of information for the legislation of Uzbekistan, the use of different terms and definitions for the same objects, and the lack of draft legislation for their compliance with the current legislation are still relevant.

With the decision of the Cabinet of Ministers of the Republic of Uzbekistan No. 296 dated November 7, 2011 of the President of the Republic of Uzbekistan "On measures to implement the decision PQ-1572 of July 8, 2011 "On additional measures to protect national information resources" " Confidential the list of information included in the information" [23] is defined. ten groups of confidential information are distinguished: Information about personal information of individuals (personal information); Information about the private life of an individual, as well as information revealing the secret of his private life; Information about the source of information or the author who signed with a pseudonym; Confidentiality of correspondence, telephone conversations, mail, telegraph messages and other messages transmitted through telecommunications networks with limited access to information in accordance with the law; information considered confidential for investigation and court proceedings; information about the service for which the owner of the information has restricted receiving information; trade secret; bank secrecy, personal insurance and will secrecy; information related to professional activity (medical secret, notarial acts, lawyer's secret, etc.) and information about the nature

of the invention, utility model or industrial design are included.

Confidentiality of information is defined in legal documents. In particular, the legal regimes of the state[24], commercial[25], containing information are developed in legal documents and established to the maximum extent.

The security of information related to the profession is also regulated by legal documents, in particular, concepts such as bank secrecy[26], lawyer's secrecy [27], doctor's secrecy [28], secrecy of notarial actions [29] are defined in regulatory documents.

cause the information obtained within the scope of the activities of state authorities and law enforcement agencies to be included in state secrets and personal data .

In particular, the importance of the concept of service secret is that within the framework of the prosecutor's control, access to information with limited access, including personal information of citizens of Uzbekistan, will be possible.

However, it should be noted that in the Law of the Republic of Uzbekistan "On the Prosecutor's Office" [30], the State law does not contain the obligation not to disclose or distribute personal information about private life, personal and family secrets, including personal information known to prosecutors during supervisory activities.[31]

Taking into account the above, as authors, we come to the conclusion that it is necessary to supplement Article 2 of the Law of the Republic of Uzbekistan "On the Prosecutor's Office" with the following fifth paragraph:

"Officers of the prosecutor's office shall not disclose information containing the state and other secrets protected by state law; also, in connection with the implementation of the prosecutor's supervision, it is necessary not to disclose or distribute the information known to them, including the information about the private life of the citizen, the information containing his personal and (or) family secret".

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

As a result of several literature studies, the analysis shows that, taking into account the internationally recognized norms, as well as the features related to the historical, political, socio-cultural development of our country, it is appropriate to study the stages of the development of the constitutional guarantees of the right to privacy directly into two stages:[32] **The first is the period** before the adoption of the Constitution of the Republic of Uzbekistan . **The second** is the period after the



adoption of the Constitution of the Republic of Uzbekistan.

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