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LEGAL ANALYSIS OF JOURNALISTIC INVESTIGATION

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Abstract. This article provides a comprehensive analysis of journalistic investigation, examining its theoretical foundations, developmental stages, and position within contemporary journalism. By synthesizing scholarly sources and practical examples, the study clarifies the essence, social functions, and distinct characteristics of the investigative branch. It further explores the legal framework and ethical principles governing information collection and dissemination, emphasizing the journalist's rights and obligations. Special attention is directed toward the role of investigative journalism in facilitating public oversight and strengthening the transparency and accountability of civil society institutions. The research scientifically substantiates the genre's potential for identifying societal problems, monitoring state bodies, combating corruption, and promoting social justice. Additionally, the study distinguishes between "journalistic investigation" and "journalistic inquiry," comparing national and international scholarly perspectives on their objectives and scope. The article concludes by defining the significance of the investigative genre within modern journalism theory and the global information landscape.

Keywords: public oversight, journalist, journalistic investigation, inquiry, monitoring, information

Introduction

Today, in the process of building a civil society, there exist several forms of public oversight, which is considered one of the key institutions of democratic governance. In addition to the forms defined in the Law "On Public Oversight," Article 6, Paragraph 2 of this law stipulates that public oversight may also be exercised in other forms. The

following can serve as examples of such forms:

- journalistic investigation;
- public cadastral oversight.

Although journalistic investigation is not directly listed as a form of public oversight in the Law "On Public Oversight," many scholars recognize it as one of the most essential mechanisms of public control

carried out by mass media. For instance, A. Yuldashev, in his research on the forms of public oversight, notes the following:

“... the second paragraph of this article stipulates that public oversight may also be carried out in other forms in accordance with the law. Such forms may include: journalistic investigation, community environmental inspectors, public environmental expertise, and others.” (Yuldashev, 2023).

From this, it becomes clear that A. Yuldashev includes community environmental inspectors and public environmental expertise among the forms of public oversight.

Methods

The purpose of this article is to provide a comprehensive and systematic analysis of the legal foundations of journalistic investigation while examining its role, place, and functions within current legislation. Beyond clarifying theoretical underpinnings, the study assesses the practical implementation of investigative journalism in accordance with legal norms and ethical standards.

To achieve this, a multifaceted research approach was employed. The primary methodological framework integrates historical-legal, comparative, analytical, and conceptual methods. Specifically, the historical-legal method traces the evolution of journalistic investigation and public oversight within legislative frameworks, highlighting the development of governing norms over time. Complementing this, the comparative method allows for a contrast between national and international practices, drawing insights from diverse legal systems and journalistic traditions.

Analytical methods further facilitate a detailed examination of existing legal provisions and their practical application in monitoring public accountability. Finally, the conceptual method provides the necessary clarity for defining key terms and theoretical approaches. By combining these methodologies, the study ensures a holistic

understanding of journalistic investigation as both a legal and social institution, ultimately highlighting its significance in promoting transparency, accountability, and the principles of public oversight.

Results

Journalistic investigation is considered one of the most effective forms of public oversight conducted by the mass media. Within the scope of this study, it is examined as a specific instrument of public oversight; however, it is first essential to analyze what a journalistic investigation entails.

According to Article 9 of the Law “On the Protection of Journalistic Activity,” a journalist has the statutory right to collect information and conduct investigations. Furthermore, journalists are entitled to disseminate their findings through the media and may voluntarily present them to state bodies, self-governing community institutions (mahallas), public associations, and other organizations. Crucially, during an investigation, materials and documents obtained by a journalist cannot be confiscated or inspected by authorities.

Despite these protections, current legislation does not clearly regulate the procedures, scope, or limits of journalistic investigations, nor does it define the mechanisms for their implementation. Researchers emphasize that the concept of “journalistic investigation” remains under-defined. At present, there is no universally agreed-upon definition, nor are there standardized objectives, functions, or methodologies for the genre.

Additionally, the terms “journalistic investigation” and “journalistic inquiry” are often used interchangeably, despite nuanced differences. The concept originated with American journalists, corresponding to the English term investigation. While the term was later adopted into Russian and subsequently Uzbek, linguistic variations persist. In Uzbek, the term is commonly rendered as *tekshiruv* (investigation) or *surishtiruv*

(inquiry/study). Currently, the term “journalistic inquiry” is frequently employed in both academic and practical contexts, further blurring the conceptual boundaries.

This analysis highlights that, despite its widespread use, the methodological approaches and practical implementation of journalistic investigation remain underdeveloped and require rigorous scholarly attention.

Discussion

At present, the concept of journalistic investigation is primarily applied to the search, study, and publication of facts that remain shielded from public attention. Although the terms “journalistic investigation” and “journalistic inquiry” are often used interchangeably in academic discourse, international practice predominantly employs the former. The term “inquiry” may implicitly narrow the functional scope of journalistic activity by associating it with descriptive observation rather than proactive fact-finding. Therefore, from both theoretical and practical perspectives, the term journalistic investigation is conceptually more comprehensive.

Nevertheless, contemporary scholarly discussions still frequently treat “journalistic inquiry” as a study of social phenomena synonymous with investigation. To clarify the essence of the field, it is necessary to compare the interpretations proposed by key researchers.

A. Konstantinov (2010) defines journalistic investigation as “the activity of searching for, researching, and publishing facts that remain outside public attention,” emphasizing the journalist’s role in uncovering socially relevant data. In contrast, Robert Green suggests it involves “working on significant topics where individuals and organizations prefer confidentiality” (Wilman, 1998). A comparative analysis indicates that Konstantinov’s approach aligns more closely with legal frameworks, whereas Green’s formulation is conceptually

problematic; it could be interpreted as legitimizing intrusion into private data – an act for which journalists lack legal authority and which may carry civil or criminal liability.

A.A. Tertichniy (2002) draws parallels between journalistic investigation and law enforcement, noting similarities in information gathering, logical analysis, and meticulous attention to detail. While this comparison is partially justified, it requires clarification. Equating journalists with investigators risks obscuring fundamental differences in legal competencies. Investigators operate within a formal procedural framework with coercive powers, whereas journalists rely on open sources, interviews, and independent reasoning. The journalist’s task is not to establish legal guilt or apprehend offenders, but to disclose unethical practices and stimulate public debate.

Tertichniy further classifies investigations into categories such as political, economic, environmental, and social crimes. While valuable, this classification could be refined by accounting for the evolving nature of digital media, transnational collaborations, and data-driven journalism.

N.V. Berger (2006) argues that journalistic investigation should be understood as a method rather than merely a genre, an approach that underscores its interdisciplinary character. Similarly, A.I. Stanko (1997) defines it as a genre where the author examines negative social phenomena to provide an impartial legal assessment. However, Stanko’s definition focuses on the output’s purpose and does not fully reveal (*reveal/replaced раскрывает*) its methodological dimensions.

While some Western scholars, such as D. Rendall, regard investigative journalism merely as a method for achieving “journalistic excellence,” we argue that this underestimates its complexity. It is a multifaceted concept integrating

methodological, functional, ethical, and legal components. This is supported by Jon Willman, who delineates the boundaries between journalism and law enforcement by stating that a journalist's task is to study facts hidden from view and prepare them for public dissemination.

Furthermore, Michael Berlin (2000) stresses that investigative journalism requires initiative and original ideas, noting that while officials may prefer concealment, information is sometimes provided voluntarily. This suggests that investigation does not always rely on confrontation but can involve strategic cooperation. Finally, legal scholars J. Qudratullaev and J. Ilkhombekov (2023) define it as "collecting, studying, and analyzing information." While accurate, this definition could be strengthened by explicitly emphasizing public interest orientation and social accountability.

In summary, the analysis demonstrates that while scholarly approaches vary, there is a clear need for a balanced definition. A comprehensive definition must distinguish journalistic investigation from law enforcement while recognizing its analytical depth and social responsibility.

Conclusion

Based on the analysis of definitions proposed by scholars across various jurisdictions, an original authorial definition of journalistic investigation has been formulated. This definition emerges logically from the research findings and is developed systematically upon established scholarly approaches. In essence, journalistic investigation is defined as a professional activity through which a journalist identifies, obtains, verifies, collects, examines, and interprets information that is largely unknown to the public, with the primary objective of disclosing abuses, violations, or other forms of misconduct to a broad audience.

On this basis, an amendment to Article 9 of the Law of the Republic of Uzbekistan No. 402-I (April 24, 1997), "On

the Protection of Journalistic Activity," is proposed with the following wording:

"Journalistic investigation is the activity of a journalist aimed at identifying, obtaining, verifying, collecting, studying, and analyzing information that is largely unknown to the public, and revealing various abuses and misconducts to the broad public through appropriate dissemination."

This proposed legal definition is precise, substantively justified, and holds significant practical value. It aligns with international academic interpretations while clearly delineating the scope, objectives, and professional responsibilities of journalists engaged in investigative work. Importantly, the definition avoids equating journalistic investigation with the activities of law enforcement bodies; instead, it emphasizes its informational, analytical, and public-interest-oriented nature.

From a practical perspective, the implementation of this norm would be ensured through its systematic application in conjunction with related legislative acts regulating freedom of expression, access to information, and journalistic ethics. In particular, the proposed amendment is compatible with constitutional guarantees of freedom of speech and mass media, as well as legislation governing personal data protection and the lawful limits of information dissemination. Such normative coordination would allow investigative journalists to operate within a clear legal framework while avoiding unlawful interference in private life or the abuse of professional rights.

Overall, incorporating this definition into current legislation would enhance the functional effectiveness of legal regulation in the field of investigative journalism. It would strengthen legal certainty, contribute to the protection of journalists' professional activities, and promote transparency, accountability, and public oversight within society.

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THE ROLE AND POWERS OF LOCAL COUNCILS IN THE FIELD OF LOCAL BUDGET MANAGEMENT IN UZBEKISTAN

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Abstract. This article examines the evolving role of local councils (Kengashes) in Uzbekistan's budget formation and execution processes within the framework of ongoing decentralization and public financial management reforms. Drawing on the Constitution, the Budget Code, and the Law "On Local State Authority," it identifies the constitutional and legal foundations of council authority in fiscal governance. The study employs a qualitative legal-document analysis method combined with international assessments. Findings show that recent reforms have significantly enhanced transparency, citizen participation, and local fiscal oversight. The article highlights that while Uzbekistan's legal architecture provides robust powers for local councils in budget approval and monitoring, practical challenges remain in ensuring effective autonomy, data transparency, and fiscal discipline at subnational levels. Strengthening institutional capacity, ensuring consistent oversight by councils, and aligning with international governance standards are emphasized as prerequisites for sustainable fiscal decentralization. Overall, the research concludes that empowering local councils through legal and procedural reforms can transform them into key drivers of accountable, inclusive, and development-oriented local governance.

Keywords: local councils, budget process, fiscal decentralization, budget transparency, participatory budgeting, public financial management

Introduction

Local governance in Uzbekistan serves as a crucial mechanism for implementing state policy at the grassroots level and for ensuring stable regional socio-economic development to meet the daily needs of the population. Within this system, the

processes of forming and executing local budgets hold a special place, as these financial resources constitute the primary source of funding for local state authorities to carry out their functions. However, maintaining balanced local budgets has become an urgent issue in Uzbekistan,

especially as the scope of regional socio-economic obligations often exceeds the financial capacity of local governments. In such conditions, the participation of local representative bodies – the local councils – in budgeting is a vital factor. By approving local budgets, overseeing their execution, and guiding the allocation of funds, these councils serve as an important organ influencing regional development outcomes.

In accordance with Article 124 of the Constitution of the Republic of Uzbekistan, Uzbekistan is a centralized unitary state in which the hokim (governor) of the region and the city of Tashkent is appointed and dismissed by the President of the Republic of Uzbekistan. At the same time, the country's administrative system has a unique feature: the Republic of Karakalpakstan holds attributes of statehood within Uzbekistan's framework, adding complexity to the unitary model (Khazratkulova et.al., 2024). According to Article 1 of the Law "On local bodies of State Authority," the Kengash of People's Deputies and the hokim ensure the implementation of socio-economic development tasks common to the region, district, and city, the execution of laws, resolutions of the chambers of the Oliy Majlis of the Republic of Uzbekistan, acts adopted by the President of the Republic of Uzbekistan and the Cabinet of Ministers, decisions of higher Kengashes of People's Deputies and hokims on the ground, interaction between state authorities and administration of the Republic of Uzbekistan and bodies of citizen self-government, and the involvement of the population in the management of the region, district, and city.

Over the past year, Uzbekistan has taken critical steps to redefine its local governance system. Last year's constitutional revision marked a fundamental shift toward decentralization (Khamedov & Tsay, 2024).

The Constitution of the Republic of Uzbekistan enshrines a fundamental

role for these councils in fiscal matters – Article 122 empowers local councils to review and approve their respective local budgets and to exercise oversight over budget execution. Enacting this norm at the highest legal level endows the councils' budgetary functions with a constitutional status. In practice, however, the influence of local councils on financial decisions had long been limited, as local budgets were historically shaped by central directives and the executive-dominated process (Ismoilov, 2020). This began to change with recent reforms aimed at enhancing transparency and public participation in budgeting.

In August 2018, Presidential Resolution PR-3917 was adopted "On measures to ensure transparency of budget data and the active participation of citizens in the budget process," mandating that starting from 2020 the State Budget be passed in the form of a law and that local budgets be approved by the corresponding local councils. This reform marked a gradual departure from the highly centralized budgetary system, as local councils now formally approve their own budgets – a shift that has been accompanied by a steadily increasing role and independence of local councils in fiscal governance. These developments raise important questions about the institutional framework and legal powers of local councils in Uzbekistan's budget process, and how effectively these powers are exercised in practice. Scholars both in Uzbekistan and abroad have interpreted the role of local councils in the budget process in various ways. Some emphasize a narrow scope centered on financial control, while others argue for a broader governance role for councils.

This article seeks to analyze the role of local councils in Uzbekistan's budget formation and execution with deep analytical rigor, examining the constitutional and legal foundations of council authority, the perspectives of different scholars on the extent of these budgetary powers, the challenges to local financial autonomy and

oversight, and the impact of recent reforms on enhancing the role of local councils. By combining an analysis of legal-institutional arrangements with a review of theoretical perspectives, the study aims to shed light on how local councils can be empowered to become effective drivers of accountable and responsive local budgetary governance.

Methods

This study adopted a qualitative research design, focusing on legal-document analysis and literature review to investigate the role of local councils in the budgetary process. Key legal and policy documents of Uzbekistan were examined, including the national Constitution, the Law “On Local State Authority” and relevant provisions of the Budget Code. These sources define the formal institutional framework and powers of local (regional, district, and city) councils in budget formation, approval, and oversight. In addition, the research surveyed academic literature by Uzbek and international scholars who have analyzed local budgetary powers and governance. Through content analysis of these texts, the study identified the constitutional and legal mandates of local councils, synthesized scholarly viewpoints on the scope of council authority, and evaluated practical challenges and recent reforms affecting local fiscal autonomy. This mixed approach enables a comprehensive understanding of both the formal rules and the practical implications for local council involvement in budgeting. All information and viewpoints extracted from sources have been duly cited to ensure accuracy and academic integrity.

Results

Institutional and Legal Framework of Local Budgetary Governance

Administratively, Uzbekistan is divided into regions, districts, and cities, each of which has a local council (Kengash) of people’s deputies working alongside the appointed hokim. These councils are intended to represent local interests and

act as a check within the local state power system. The legal framework provides a clear distribution of budgetary authority. The Constitution (Article 122) establishes that local councils have the right to consider and approve local budgets and to oversee their implementation. The fact that this mandate is constitutionally entrenched imbues the councils’ participation in budget processes with a firm legal standing.

In essence, the Constitution guarantees that councils serve as an integral part of financial governance at the local level. Subordinate legislation elaborates on these powers. Article 24 of the Law “On Local State Authority” enumerates a comprehensive list of budget-related functions of the councils. These include approving local socio-economic development programs and master plans for territorial development, as well as reviewing and adopting the budgets of regions, districts, and cities (upon submission by the respective hokim) and exercising oversight over their execution. Local councils are also empowered to approve modifications to approved budgets and to hear reports from the administrators of budgetary funds on the effective use of allocated resources. Furthermore, they have the authority to set the rates of local taxes and other obligatory payments within the limits established by national legislation, and to review and approve the reports on the execution of local budgets for the relevant period. Through these provisions, the law clearly positions the council as a key factor in the local budget cycle – from planning and approval to monitoring expenditures.

Notably, Article 24 of the Law “On Local State Authority” also designates the local councils as the primary organ for confirming regional development programs and overseeing their implementation, underscoring that the councils’ powers have not only formal legal significance but also practical impact on local governance.

The Budget Code of Uzbekistan reinforces and clarifies the councils' fiscal authority. Article 27 of the Budget Code explicitly delineates the budgetary powers of local councils, which include adopting local budgets, examining and approving the execution of those budgets on a quarterly basis, accepting forecasts of local budget revenues, and making decisions regarding inter-budgetary transfers. By stipulating these functions, the Budget Code ensures that local representative bodies are embedded in each stage of the budget process, from formulation to oversight. Additionally, the Budget Code empowers local councils to influence local financial policy by allowing them to set rates for local taxes and fees within the bounds prescribed by law. This fiscal tool enables councils to affect revenue generation for their jurisdictions, thereby linking their policy decisions with budgetary outcomes.

In summary, Uzbekistan's institutional framework – through the Constitution, the Law on Local State Authority, and the Budget Code – provides local councils with a broad mandate over budget approval and supervision. The local councils are legally established as an important institution for ensuring that local budgets align with development priorities and that public funds are spent in accordance with the law and local needs.

Theoretical Perspectives on Local Councils' Budgetary Powers

In the academic discourse, there is a rich debate regarding how effectively and to what extent local councils exercise their budgetary powers. Researchers from Uzbekistan and other countries of the region have offered differing interpretations of the councils' role in the budget process. Some scholars define a relatively narrow scope focused on core financial tasks, whereas others argue for a more expansive role for councils in local governance.

Financial Autonomy as a Core Principle of Local Budget Management

Economist M. Goldsmith stated in his research that “financial independence of local authorities is an important condition for providing services to the population through the organization of its territory and the most effective management of its resources” (Goldsmith, 1990). Economists Oulasvirta and Turala admit that “fiscal decentralization requires local governments to control their “own” sources of income in order to achieve sufficient financial independence and accountability to local taxpayers” (Oulasvirta & Turala, 2009).

According to Sumskaya for the effective functioning of local governments an important role is played by the sufficiency of the revenue base of local budgets (Sumskaya, 2019). K. Beer-Toth mentioned that “the quality and quantity of public services provided in the country depends on the financial rules and incentives that regulate the interaction between various entities of the public sector” (Beer-Tóth, 2009). According to A. Mamanazarov, “in order to increase the financial capabilities of local budgets, it is appropriate to issue securities of local importance and based on compensation from budget revenues, to create legal grounds for attracting debt obligations to local authorities” (Mamanazarov, 2004).

Local budgets create at the disposal of each local government body a real financial base for the implementation of its activities. The system of local budgets makes it possible to more fully take into account local needs and correctly measure them with measures carried out by the state in a centralized manner. Local authorities should constantly take care of increasing local budget revenues and economical use of resources, since the growth rates of the local economy and culture are directly dependent on the organization of work to mobilize local economy reserves, economical spending of funds, which, in turn, contributes to the successful implementation of the state budget of

the Republic of Uzbekistan as a whole (Usmonov, 2023).

In the structure of local budgets, local taxes and fees account for approximately one-fifth of all revenues on average across the Republic. This indicates that the majority of local budget revenues are generated through nationwide taxes and financial aid. The independent revenue base of the Republic of Karakalpakstan, regional budgets, and the city of Tashkent is primarily formed by: property tax from legal entities; land tax from legal entities; water resource tax paid by power plants; excise tax on the sale of gasoline, diesel fuel, and gas to final consumers; turnover tax; state duties; and fines, among others.

Additionally, specific taxes are credited to these budgets in varying proportions. For personal income tax revenues, the allocations are as follows: Navoi region – 55%, Tashkent region – 38%, the city of Tashkent – 11%, and the Republic of Karakalpakstan and other regions – 100%. Regarding profit tax revenues, the distribution is: Navoi region – 61%, Tashkent region – 39%, the city of Tashkent – 11%, and the Republic of Karakalpakstan and other regions – 100% (Khazratkulova et al., 2024).

Scholars such as M. Goldsmith, Oulasvirta, Turala, Sumskaya, and Beer-Toth agree that the financial autonomy of local authorities is the key determinant of effective territorial governance. They emphasize that local governments can provide quality public services only when they control their own revenue sources and possess sufficient fiscal capacity to meet community needs. According to these theoretical perspectives, fiscal decentralization must guarantee stable local income bases, financial accountability, and flexibility in resource allocation. As A. Mamanazarov notes, expanding local budget capabilities through mechanisms such as municipal securities and debt instruments can enhance sustainability and independence. Overall, financial self-

sufficiency ensures that local budgets not only serve as a fiscal tool but also as a means of balancing national and territorial development priorities.

Financial Oversight as the Central Role: M. Chudakov asserts that the primary function of local councils is to adopt the local budget and distribute financial resources, suggesting that direct financial matters should lie at the heart of council activity (Chudakov, 1998). In a similar vein, O. Pashkov emphasizes what he considers the council's absolute authority in budgetary matters – namely the irreplaceable power to approve the local executive's report on budget execution. This perspective underscores the council's role as a financial watchdog, solidifying its independent standing in the system of governance by virtue of this oversight function (Pashkov, 2013).

O. Gaybullaev likewise highlights budgeting as a core responsibility of councils: he identifies the formation, approval, and oversight of regional, district, and city budgets as among the councils' main tasks. According to Ghaybullaev, the active participation of council deputies in debating budget proposals and hearing reports on budget execution helps ensure that state resources are utilized in a targeted and accountable manner at the local level. These scholars collectively portray local councils as central participants in the local public finance process – their authority largely confined to financial planning and control, but with that financial oversight seen as crucial for good governance (Gaybullaev, 2016).

Broader Governance and Developmental Role: Other authors advocate a more comprehensive view of local councils' influence. V. Chumanova interprets the councils' powers in broad terms, arguing that council oversight is intrinsically connected not only with the local budget itself but also with the implementation of local development programs and plans. In her view, by

reviewing progress reports on socio-economic development programs, councils assume a strategic role in guiding the development trajectory of their territories (Chumanova, 2008). Similarly, V. Shchepachev points out that the processes of forming local revenues and controlling their expenditure are important tools for local councils in resolving issues of local significance. This means that a council's budgetary authority, in Shchepachev's interpretation, is not confined to bookkeeping or auditing functions; rather, it extends to influencing broader social and economic outcomes in the locality through fiscal decisions. Both Chumanova and Shchepachev thus envision local councils as more than financial overseers – they are seen as bodies that can shape strategic development priorities and ensure that budgeting is aligned with those goals. This broader perspective implies that the council's engagement in the budget process can have a ripple effect on general governance, from infrastructure planning to social services, by virtue of the council's ability to approve programs and control funding for their execution.

Legal Independence and Oversight Efficacy: A. Yusupov brings a legal-institutional angle to the discussion, focusing on how law structures the independence of local councils in budgeting. He notes that local councils emerge as autonomous legal entities in the budget process through their authority to introduce or abolish certain local taxes and fees in accordance with legislation (Yusupov, 2008). This power over local taxation is a significant indicator of fiscal autonomy: it gives the councils a direct tool to influence their revenue base and underscores that council oversight of budget execution is backed by legal mechanisms and protections. Yusupov's perspective highlights that the rule of law can safeguard the councils' budgetary role, preventing it from being merely symbolic.

Meanwhile, A. Makhmudov stresses the practical importance of effective council oversight. He warns that without establishing effective mechanisms for councils to approve local budgets and monitor their execution, persistent socio-economic problems will continue to arise in the regions. Makhmudov argues that ensuring the councils' independence in exercising their budgetary powers – and avoiding undue interference in their activities – is crucial for resolving the pressing issues that citizens raise at the local level (Makhmudov, 2019). In other words, the councils' ability to function freely as representative bodies in overseeing budgets directly impacts their capacity to address the needs of their constituents. This view reinforces the idea that local democracy and accountability are strengthened when councils have both the formal authority and the de facto freedom to scrutinize expenditures and demand transparency from the executive.

When studying current practice using the example of Namangan region, it was found that by Resolution No. VII-4-030-6-0-K/24 dated December 26, 2024 of the Council of People's Deputies of Namangan Region, the local budget of Namangan region for 2025 was approved. In accordance with the Law of the Republic of Uzbekistan "On the State Budget of the Republic of Uzbekistan for 2025", the revenues of Namangan region for 2025 were set at 3,942.8 billion soums, expenditures at 6,171.2 billion soums, and regulatory interbudgetary transfers allocated from the republican budget at 2,228.4 billion soums. In addition, Appendix 7 to the resolution specifies the coefficients established for 2025 for land tax rates on non-agricultural land by districts and cities.

In summary, the literature reveals a spectrum of interpretations of the local council's role in budgeting. On one end, scholars like Chudakov and Ghaybullaev concentrate on the council's financial oversight and budget approval functions

as the cornerstone of its activity. On the other end, voices such as Chumanova and Shchepachev assign the councils a wider remit, linking budgetary oversight with strategic development oversight. Others, including Yusupov and Makhmudov, underscore the conditions necessary for councils to fulfill any role effectively – namely, a solid legal foundation and genuine autonomy in exercising their powers. The common thread across these perspectives is the recognition that local councils are pivotal to local fiscal management; the debate centers on how far their influence should extend and how it can be exercised most effectively. The analysis of these viewpoints suggests that a local council's participation in the budget process should not be confined to rubber-stamping financial plans. Rather, when councils engage substantively – covering financial control, legal authority, and strategic developmental considerations – they have the potential to become true drivers of socio-economic development in their communities.

Discussion

The findings illustrate that Uzbekistan has established a robust formal framework for local councils to participate in budget formation and execution; recent reforms have sought to translate these formal powers into meaningful practice. As A. Kasimov (2023) noted, the powers of local councils and their supervisory duties are expanding annually. Deputies are now tasked with establishing effective oversight of executive power and ensuring the accountability of local public administration bodies. Specifically, they have been granted powers to approve amendments to local budgets, hear reports from executive leaders on implementation, and review regulatory inter-budgetary transfers. At the core of these expanded powers is the principle of ensuring that governance serves the benefit of the people and promotes prosperous living as a fundamental value.

The institutional framework enshrines local councils as key stakeholders in fiscal governance. Constitutionally authorized to approve budgets and oversee execution, they are statutorily empowered with functions ranging from development planning to setting local tax rates. This represents a solid foundation for financial self-governance. However, legal powers alone do not guarantee effective oversight or autonomy; one must distinguish between *de jure* authority and *de facto* realization.

A crucial observation is the tension between Uzbekistan's historically centralized governance model and the current push for local autonomy. Scholarly perspectives highlight that if local councils cannot exercise their oversight role independently, local needs may go unmet. As Makhmudov (2019) emphasized, empowering councils to monitor budgets without executive interference is essential for addressing the pressing issues raised by citizens. This underscores a practical challenge: financial autonomy is a matter of both law and administrative culture. If local executives dominate budget preparation or if deputies lack the expertise to challenge proposals, the council's role remains perfunctory. Strengthening these bodies requires not just legal empowerment, but capacity building, data transparency, and a system of checks and balances.

A core policy question remains: Should local councils act merely as fiscal guardians or evolve into proactive agents of development? While the narrow view stresses financial discipline and auditing, the broader view suggests a mandate to shape the direction of local development. Recent reforms endorse this broader view by enabling councils to influence budget priorities, such as choosing between healthcare and infrastructure. Over time, this could lead to budgetary decisions tailored to specific regional conditions, a hallmark of effective decentralization.

Furthermore, reforms such as PR-3917 have enhanced accountability and public engagement. By transforming budget approval into a legislative act, the process has gained a new level of scrutiny. Local council sessions serve as public forums where media and citizens can observe their representatives. This opening for civic engagement – indicated by the 2018 resolution – suggests that local governance is becoming more democratic. Early signs are promising; the Legislative Chamber’s Speaker noted that many council suggestions are now reflected in budget proposals, implying a developing dialogue between local bodies and central planners.

Despite this progress, challenges remain. A perennial issue is the limited revenue base; many local budgets have expenditure responsibilities that outweigh their own-source revenues, necessitating a reliance on central transfers. As defined in Article 52 of the Budget Code, this dependence can curtail autonomy, as central funds often come with strings attached. Additionally, local councils may face technical capacity constraints in revenue administration. Strengthening fiscal capacity through training and expert advice is therefore a necessary complement to legal reform.

Ultimately, the evolution of local councils into robust institutions depends on practice. If a council uses its power to amend an executive budget, it tests the system’s commitment to checks and balances. A healthy governance model requires a partnership where the executive manages administration while the council represents public priorities. Uzbekistan’s trajectory suggests a clear, albeit gradual, movement toward enhancing local budgetary governance, positioning local councils as the cornerstone of accountable and responsive government.

Conclusion

In conclusion, the role of local councils in Uzbekistan’s budget formation and execution is undergoing a significant transformation. The institutional framework grants these councils considerable powers – ranging from budget approval and oversight to influencing local revenue policy – and recent reforms have begun to activate these powers in practice. The analysis reveals both the promise and the challenges inherent in this evolution.

On one hand, local councils, supported by constitutional and legal mandates, have the potential to ensure that budgeting is conducted with greater transparency, accountability, and alignment with local priorities. On the other hand, fully realizing this potential will require continued efforts to bolster the councils’ independence, technical capacity, and engagement with the public.

The ongoing reforms, alongside the strengthening of the Budget Code, are positive steps toward a more decentralized fiscal governance model. By embracing both their financial oversight duties and their broader developmental responsibilities, and by operating within a supportive legal and political environment, Uzbekistan’s local councils can become effective guardians of public funds and leaders of their communities’ socio-economic progress.

The experience of these reforms in the coming years will offer valuable lessons on how local representative institutions can be empowered to make a meaningful difference in the lives of citizens through the budgetary process. The trajectory in Uzbekistan thus far suggests a cautious but clear movement toward enhancing local budgetary governance, with local councils emerging as the cornerstone of accountable and responsive local government.

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PROPERTY AND INTELLECTUAL PROPERTY RIGHTS IN ADDITIVE MANUFACTURING (3D PRINTING): A SUI GENERIS PERSPECTIVE WITHIN CIVIL LAW

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Abstract. The article examines the complex civil-law regulation of digital and physical objects created through additive manufacturing technologies. Drawing on comparative analysis of the Uzbek Civil Code, the Laws on Copyright, Patents, and E-Commerce, and strategic documents such as the Strategy “Uzbekistan – 2030” and Digital Uzbekistan–2030, the study identifies significant legal gaps in defining ownership, authorship, and liability concerning 3D-printed objects and their digital design files (CAD models). The article contrasts Uzbekistan’s framework with the approaches of the EU, USA, China, Germany, France, and post-Soviet jurisdictions, emphasizing how most countries rely on adapting existing property and intellectual property doctrines rather than introducing a new regulatory regime. The analysis highlights unresolved doctrinal issues such as the dual nature of 3D-printed property (digital and material), uncertainty of rights transfer in digital environments, and insufficient enforcement mechanisms for online infringements. Finally, the author proposes sui generis reforms within Uzbekistan’s civil law – clarifying digital goods ownership, expanding copyright scope to CAD files, introducing limited-use exceptions, and strengthening IP enforcement online – aligning national legislation with international best practice and the technological goals of Strategy 2030.

Keywords: additive manufacturing, 3D printing, property rights, intellectual property, digital goods, CAD files, copyright, sui generis regulation

Introduction

Additive manufacturing (“3D printing”) represents one of the most profound technological shifts in contemporary production, enabling the direct transformation of digital data into physical objects. This

process disrupts traditional civil-law concepts of property, ownership, and creativity by combining two fundamentally different legal domains: intangible intellectual creations and tangible material objects. As a result, conventional legal doctrines are increasingly

challenged in their ability to regulate authorship, ownership, reproduction, transfer, and liability in relation to both the digital design file and the printed object.

Additive manufacturing (“3D printing”) raises complex questions for both property law and intellectual property (IP) law. Experts observe that conventional IP categories – *copyright, design, patent, and trademark* – can cover many aspects of 3D printing. For example, “copyright will protect the originality of a work and the creator’s right to reproduce it” (Malaty, E., & Rostama, 2017), meaning an original object or its digital design file can be protected as an artistic or literary work.

Industrial design rights cover an object’s shape or aesthetic form, while patents protect its technical functions or innovations (and even 3D trademarks can protect product shapes). Likewise, many commentators treat a digital 3D (Ebrahim, 2016) model (design file) as akin to software: it requires “a personalized intellectual effort” and thus qualifies for copyright protection. In some jurisdictions (e.g., France’s Intellectual Property Code Art. L613-4), supplying or offering to supply a 3D print file of a patented product is itself prohibited (Malaty, E., & Rostama, 2017). Thus, under existing law “3D files and those using 3D printing for non-commercial purposes” are largely addressable by current IP regimes. That said, commentators note unresolved issues – e.g., who is the “author” or “inventor” if one person designs an object, another digitizes it, and another prints it; and whether printer owners might deserve *sui generis* rights akin to performers or producers (Malaty, E., & Rostama, 2017) – indicating that unique 3D-printing scenarios may require novel legal thinking.

In Central Asian jurisdictions, including Uzbekistan and Kazakhstan, disputes directly addressing additive manufacturing remain limited; however, existing intellectual property practice provides relevant indications. Copyright law in the region already recognizes computer

programs and technical documentation as protected works, which allows CAD files used for 3D printing to fall within the scope of copyright protection where originality is present. In practice, enforcement has focused on unauthorized digital reproduction and distribution rather than the physical printed object.

Industrial design protection in Central Asia has been invoked primarily in relation to consumer goods and industrial components. National IP offices apply functionality-based exclusions similar to those found in European civil-law systems, which suggests that the 3D printing of purely functional spare parts may fall outside design protection. This approach implicitly accommodates additive manufacturing, even in the absence of explicit regulation.

Patent law offers stronger protection in the region, particularly through doctrines addressing indirect infringement. The transfer of technical documentation or digital models enabling the reproduction of patented inventions may be qualified as unlawful use of patented technology, especially where commercial intent is established (European Patent Office [EPO], 2020). By contrast, trademark enforcement related to 3D-printed goods remains underdeveloped, with practical emphasis placed on traditional counterfeit goods rather than digitally manufactured items.

Overall, Central Asian practice reflects an adaptive but fragmented application of traditional civil law IP doctrines to additive manufacturing. This regulatory gap further supports the need for a *sui generis* civil-law approach that explicitly addresses digital design files, decentralized production, and the blurred boundary between private and commercial use in 3D printing.

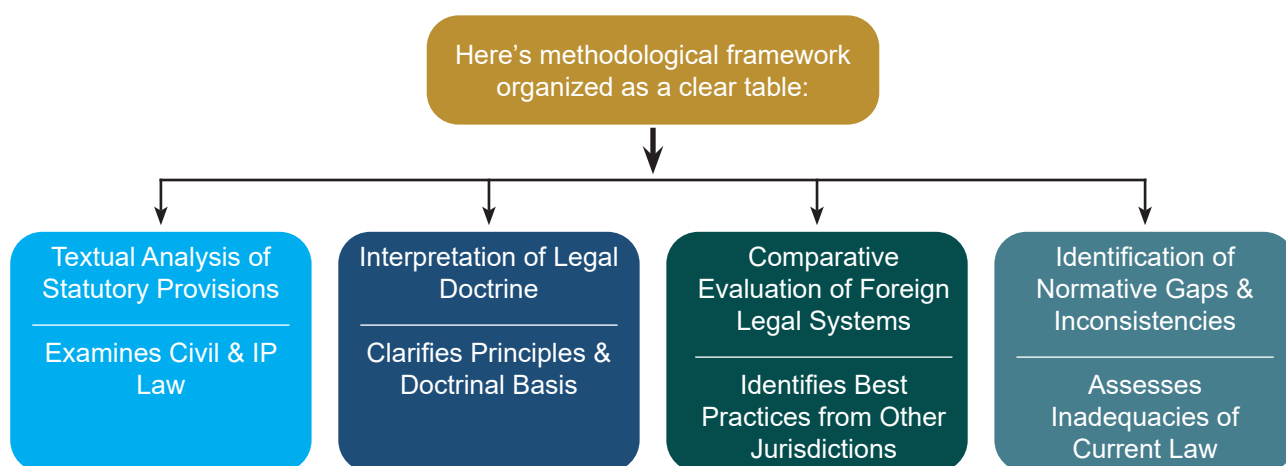
Against this background, the study seeks to assess whether existing civil-law doctrines sufficiently address the legal realities of additive manufacturing or whether a specialized, *sui generis* regulatory approach is required. The central research question guiding this article is: To what extent does Uzbekistan’s civil and intellectual property

framework provide adequate protection for property and IP rights arising from additive manufacturing, and what normative reforms are necessary to ensure legal certainty and balance? The main purpose of this article is to critically examine the intersection of property law and intellectual property law in the context of additive manufacturing, highlighting the challenges posed by digital design files, decentralized production, and the hybrid nature of 3D-printed objects. It aims to evaluate the adequacy of Uzbekistan’s existing civil-law and IP framework and to propose normative reforms or a sui generis approach that

ensures both legal certainty and balanced protection for rights holders and users.

Methods

This research adopts a doctrinal and comparative legal methodology designed to provide a structured and systematic analysis of additive manufacturing within civil law. The study is based on a critical examination of normative legal sources, including the Civil Code of the Republic of Uzbekistan, the Laws on Copyright and Related Rights, Patents, Industrial Designs, the E-Commerce Law (2022), and strategic policy documents such as “Digital Uzbekistan–2030” and the State Program on Intellectual Property Development (2022–2026).



Comparative analysis includes civil-law systems (Russia, Germany, France, and EU Member States) and common-law jurisdictions (United States, China) to identify dominant regulatory patterns and deviations in the treatment of 3D printing. The study also uses international materials, including WIPO policy discussions, to assess global trends concerning the possible emergence of sui generis regimes.

This methodological approach allows evaluation of Uzbekistan’s framework both in isolation and within the broader context of global legal development, ensuring analytical coherence and policy relevance.

Discussion

The analysis demonstrates that while most jurisdictions rely on adapting existing

intellectual property doctrines, they nevertheless acknowledge unresolved legal challenges associated with the hybrid nature of 3D printing.

Internationally, civil-law jurisdictions have approached 3D printing within their IP and property codes (Kantaros, 2024). In Russia (a civil-law system), legal analysts note that a 3D model obtained by scanning a copyrighted sculpture “will be protected by copyright as a digital copy”. Conversely, if a model is created by creative effort from scratch, it is an independent copyrightable work. Russian commentators even suggest that 3D models could be registered as industrial designs or three-dimensional trademarks, securing separate protection for the same design under different regimes. The same principle holds elsewhere

in Europe: for example, EU law allows unregistered or registered design rights in shapes, copyright protection for creative CAD files, and patents for functional inventions. The European Commission has prioritized 3D printing for innovation, but no EU-wide “3D-specific” law exists – rather, existing IP laws apply (Deloitte Legal, 2017). In fact, a WIPO study notes that current IP law in most countries suffices to cover 3D printing in practice. It even raises the question of a hypothetical *sui generis* right: “would it make sense to consider creating a *sui generis* right for 3D printing” similar to database protection?. So far, no country has created a dedicated “3D Printing IP” right; instead, legal systems adapt their established civil-law doctrines to these novel digital-physical products (World Intellectual Property Organization [WIPO], 2020).

In common-law jurisdictions like the USA, similar principles apply by analogy. A 3D design file can be copyrighted as a “literary work” or computer program, and printing a patented item without permission is patent infringement under 35 U.S.C. §271. U.S. courts have recognized that copyright in a digital file extends to any unauthorized reproductions of the described object. Hobbyist printing for private use falls under the U.S. fair-use doctrine (similar to other private-use exceptions), but substantial copying of protected objects is actionable. China likewise applies its patent, copyright and design laws to 3D printing; Chinese scholars urge combining enforcement of copyright (for design files) and patent/trademark laws for printed products. Globally, the trend is to rely on existing IP rights rather than inventing entirely new categories, even as policymakers debate whether any unique “*sui generis*” regimes are needed.

Uzbek law currently addresses 3D-printed goods through its general civil and IP laws, without a bespoke 3D-printing statute. The Civil Code defines the objects of civil rights to include “inventions, industrial designs, and works of science,

literature, art and other results of intellectual activity.” This codifies intellectual creations as property in themselves (as civil-law “objects”). Thus, an original 3D model file or a printed object embodying a patentable invention fits within Uzbekistan’s notions of property: patents, designs, and copyrights are considered intangible “property rights” that can be owned, transferred, or licensed.

Under Uzbek patent law, inventions receive up to 20 years of protection, industrial designs 10 years, and utility models 5 years (Law on Invention, 2022). In practice, a 3D-printed product replicating a patented machine or component would infringe the patentee’s exclusive rights unless a license is obtained. Likewise, if a printed object’s shape is covered by a registered design patent, production may be forbidden. The law even allows patent terms to be extended in exceptional cases. Uzbekistan’s copyright law extends to all creative works (“science, literature and art resulting from creative activity”) and explicitly includes three-dimensional creations such as “sculptures [and] models.” This implies an original 3D design created by an artist or engineer could be protected as a creative work. Copyright automatically vests in the author, while patents/designs require registration.

For digital design files, Uzbekistan presently relies on its new E-Commerce Law (2022), which defines “*digital products*” as “electronic copies of objects of intellectual property” (Law on Electronic Commerce, 2022). In other words, a 3D CAD file sold or downloaded online is treated as a digital copy of some copyrighted or patented work. E-Commerce Law Articles 20–21 set formal requirements for digital sales contracts (e.g. confirmation by receipts or system messages), but they focus on transaction formalities, not substantive IP rights. In practice, a 3D file is typically licensed (not “sold”) under user agreements, leaving unresolved questions: is the user a licensee or owner of the digital product? Can they freely print it? Current Uzbek law does not

clearly define ownership of downloaded digital goods. Meanwhile, once a user prints an object, that tangible object becomes the user's personal property under general ownership rules, but this does not override any outstanding IP claims on the design.

Beyond existing codes, Uzbekistan's policy documents signal attention to digital innovation and IP modernization. The "Digital Uzbekistan–2030" strategy (2020 Presidential Decree UP-6079) emphasizes "*active development of the digital economy*" and the commercialization of advanced IT projects. It specifically calls for practical use of technologies like artificial intelligence and support for tech-transfer of innovative developments. Likewise, the State program on Intellectual Property (2022–2026) (Resolution PR-221) explicitly aims at "elimination of existing gaps and contradictions in IP legislation" and continuous improvement based on world practice. These high-level directives imply that Uzbekistan recognizes the need to update its laws for emerging technologies. Indeed, recent presidential decrees in niche industries show 3D printing entering state policy: for example, a 2023 decree (PP-331) ordered study of "*3D-printing technologies in the production of shoe parts*" to enhance the leather and footwear sector (Resolution No. PP-331, 2023).

However, gaps remain. No Uzbek law specifically addresses 3D printing or digital models. The Civil Code treats all IP outputs as property, but it does not distinguish digital designs from other intangible assets. Copyright law covers creative works broadly, yet does not explicitly address 3D files or private 3D printing exceptions. Patent law protects printed inventions, but there is no clarity on whether producing a one-off 3D-printed item at home falls under a private-use exemption (unlike some countries' patent laws).

Moreover, the e-commerce framework treats 3D design files as digital products, but offers no substantive IP rule: it defines *what* they are but not *how* their rights are used or transferred. Practically, unauthorized distribution of a protected 3D

design file would be actionable as copyright or patent infringement under Uzbek law, but the law lacks any 3D-specific penalties or compliance measures.

Results

The results reveal that Uzbekistan's reliance on conventional civil law mechanisms provides only partial legal certainty for additive manufacturing. The dual digital-physical nature of 3D printing challenges classical doctrines, as ownership of the tangible object does not equate to unrestricted rights over the underlying intellectual content.

These reforms do not necessarily entail creating an entirely new IP category but represent *sui generis* adaptation of existing norms, aligning with Uzbekistan's strategic objectives under Digital Uzbekistan–2030 and its intellectual property reform agenda.

Key challenges include: (1) Lack of explicit protection for digital 3D models. Although copyright can cover a creative CAD design, users and courts may not clearly classify a complex model (e.g. a parametric engineering file) as copyrightable or not. (2) Ambiguity of ownership/licensing for digital goods. Uzbek law should clarify whether a downloaded 3D model is sold as an asset or licensed, and what rights the recipient has. (3) Absence of a private-use exception. Without guidance, a citizen printing a patented component at home technically infringes the patent, even if intended for private use. (4) Enforcement difficulty. Policing IP on the internet (e.g. infringement on 3D file sharing sites) requires effective intermediary liability rules, which Uzbekistan is only beginning to develop (IP Strategy calls for modern enforcement by digital means). (5) No *sui generis* regime. There is no special IP category for 3D printing (contrast "database" rights in EU). This may be acceptable short-term, but as global best practice evolves, Uzbekistan may need unique provisions.

Additionally, to improve the system, Uzbekistan could consider the following measures:

Reform Area / Measure	Proposed Action	Rationale / Example
Clarify Digital Goods in Civil Law	Amend the Civil Code (e.g., Article 81) to explicitly include “digital designs” or “computer models” as transferable property, or define the transfer of digital files.	Aligns with the E-Commerce Law’s definition of “digital products” and ensures 3D models are consistently treated in transactions.
Expand Copyright Scope	Amend Copyright Law to affirm that computer models and digital mock-ups fall under “works of art” or “computer programs.”	Prevents uncertainty about copyrightability of 3D designs and supports the IP Strategy’s goal of aligning with international best practices.
Introduce Limited Use Exceptions	Create a narrowly tailored personal-use exception for non-commercial 3D printing.	Balances innovation with enforcement: allows families to print spare parts at home while prohibiting commercial copying. Exception must be clearly defined to protect IP incentives.
Address Infringing File Distribution	Strengthen rules for online intermediaries; treat infringing 3D print files as means of implementing a patent.	Emulates France’s Article L613-4 IP Code; enables rights holders to sue uploaders of illegal files, supporting IP Strategy’s Internet enforcement goals.
Support Technical Measures	Encourage use of digital rights management (DRM) for 3D files, including unique identifiers, watermarks, or blockchain tracking.	Helps rights holders monitor and identify unauthorized prints, as recommended by WIPO.
Raise Awareness and Training	Conduct specialized legal education and industry outreach (workshops for judges, customs officials, businesses).	Ensures correct application of IP law; for instance, recognizing copyright in a single 3D-printed chair design.
Monitor and Adapt via Strategy 2030	Use national strategies (“Uzbekistan – 2030” and “Digital Uzbekistan– 2030”) to update laws and fund IT research.	Allows policymakers to track global trends (e.g., EU database-right analogues for 3D printing) and refine Uzbek law accordingly.

By filling identified legal gaps, Uzbekistan can better protect innovators while promoting advanced manufacturing. The IP Strategy’s call to eliminate legislative gaps aligns with creating a clearer regime for 3D printing. Given Uzbekistan’s rapid push for digital economy development, it is timely to integrate additive manufacturing into its civil/IP laws. Uzbekistan may ultimately not need a wholly new “sui generis 3D right”, but it will need sui generis thinking – tailored adjustments within its civil law framework – so that digital models and 3D-printed goods are governed with the same clarity and balance as other property and IP assets.

Conclusion

Additive manufacturing presents a new hybrid paradigm where digital creativity directly generates tangible property, destabilizing traditional civil-law classifications. Uzbekistan’s current legal framework formally recognizes intellectual creations as civil law objects, yet fails to adequately address the specific risks and complexities posed by 3D printing technologies.

The study concludes that Uzbekistan does not require the creation of a new standalone “3D printing right,” but rather demands targeted sui generis normative adaptation within existing civil and intellectual property systems. Clarifying digital ownership, strengthening enforcement mechanisms, and refining licensing rules are essential to ensure balanced legal protection and innovation promotion.

By modernizing its civil law framework in line with global practice and national development strategies, Uzbekistan can secure legal predictability while fostering technological progress, positioning itself as a responsive and forward-looking jurisdiction in regulating additive manufacturing.

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THE ROLE OF MEZZANINE CAPITAL IN FINANCING ENTREPRENEURIAL ACTIVITY AND ITS LEGAL REGULATION

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Abstract. This article aims to examine the role of mezzanine financing – a non-traditional, hybrid instrument – in situations where conventional methods (bank loans, leasing) lack flexibility and sufficient risk appetite for innovative projects. Mezzanine finance combines elements of debt and equity, allowing companies to attract substantial capital without diluting existing shareholding, and holds an intermediate position in the priority ranking during insolvency, situated between senior creditors and shareholders. The core of the research consists of a comparative analysis of mezzanine’s legal regulation. The article details the relationships between the key participants in a Mezzanine transaction – the borrower, the senior creditor, and the mezzanine creditor – including their priority, the collateral (shares/equity interests), and return requirements. The conclusion substantiates the need to implement relevant norms into Uzbekistan’s national legislation, drawing on the similarities between mezzanine and existing financing types, including the introduction of accelerated foreclosure procedures and the establishment of legal certainty for private investments.

Keywords: hybrid capital, mezzanine financing, legal regulation, entrepreneurship, investor, structural subordination, share

The development of entrepreneurial activity is primarily determined by the availability of adequate financing sources. Financing is the process of attracting monetary funds necessary for entities to start, expand, and modernize their operations. Traditional financing methods, particularly bank loans and equity issuance (capital financing), have long served as the main pillars of economic development.

However, each method has its distinct drawbacks: bank loans are constrained by high interest rates and rigid collateral requirements. Equity financing (such as IPOs) demands complex legal procedures and high costs.

Current trends in the global financial market, driven particularly by the needs of small and medium-sized enterprises (SMEs), indicate a growing demand for new financing

instruments that combine the advantages of both debt and equity. Hybrid financing serves as such an alternative solution, distinguishing itself significantly from other types due to its flexibility. Its key characteristic lies in the ability of debt instruments (e.g., bonds) to acquire the features of equity instruments (shares). Specifically, the investor initially acts as a creditor, receiving a fixed interest income. However, in the future, depending on the company's growth, they acquire the right to convert this debt into equity. This mechanism allows companies to mitigate financial risks and increase investment attractiveness.

The significance of hybrid financing is growing globally year by year. While startups in the US actively raise venture capital through convertible loans, large corporations in developed markets like the European Union and Japan are expanding their capital base using convertible bonds. Practice in these countries' financial markets demonstrates that hybrid instruments not only offer convenience for companies but also provide investors with the potential for higher returns and lower risks.

These trends necessitate the study of hybrid financing mechanisms, their introduction into national legislation, and the implementation of necessary measures to protect the rights of both parties during the legal regulation process.

However, within the national legal system, the civil-law nature of hybrid financial instruments – specifically mezzanine financing – has not yet been systematically researched. The primary legal challenge is that mezzanine transactions occupy the intersection of the law of obligations and property law, and their status is not clearly defined in current legislation. This, in turn, creates significant legal conflicts regarding the priority of creditor claims in the event of the debtor company's insolvency. The legal relevance of this article is underscored by the fact that the rigid hierarchy of creditor priority in the Civil Code of Uzbekistan and the absence

of the institute of contractual subordination (priority agreements) negatively impact the investment climate. The objective of this research is to classify mezzanine financing as a distinct institute of civil law and to provide a scientific justification for its legal consequences within bankruptcy proceedings.

Methods

This article, as a research study, encompasses an analysis of various sources. Scientific concepts, the views and conclusions of practicing scholars, and expert opinions concerning the field have been examined in this paper. Furthermore, the regulation of mezzanine financing in different jurisdictions has been analyzed from a comparative legal perspective.

The foundation of the research methodology consists of comparative-legal and systematic analysis methods. The object of the study is defined as the property relations that arise between the investor, the debtor, and other creditors during the mezzanine financing process. The subject of the research pertains to the norms of foreign jurisdictions and national legislation that regulate these specific relations.

The experiences of the United States, the United Kingdom, and Germany were selected for the comparative analysis. Specifically, the United States possesses the most extensive case law regarding the integration of mezzanine instruments with capital markets and lender liability. The United Kingdom has developed the internationally recognized LMA (Loan Market Association) standards, based on the principle of freedom of contract inherent in English law. Germany, representing the Continental legal system, offers a model for regulating mezzanine financing through the "Silent Partnership" (Stille Gesellschaft), providing relevant experience for aligning such instruments with the legal system of Uzbekistan.

The article begins by exploring the core concepts related to the topic, followed by an exposition of the procedure for financing entrepreneurial activities through

mezzanine, the rights and obligations of the parties, and the procedure for concluding the relevant contracts. The advantages of this method and its legal regulatory mechanisms are compared.

Additionally, the study provides conclusions on the necessity of widespread practical implementation of this new financing mechanism and the improvement of legislative acts. The realization of these conclusions will serve to achieve several goals, including the creation of robust financial and legal solutions for entrepreneurs in carrying out their activities, the formation of a unique competitive environment among financial institutions and investors and the guaranteeing of investor rights and the establishment of a climate of trust between them and entrepreneurs.

Results

Traditional methods of financing entrepreneurial activities, such as bank credit, leasing, and factoring, continue to play a crucial role in business development. Their main advantages lie in their stability, clear rules, and widespread use. However, in today's rapidly changing, digitized, and innovation-driven environment, their drawbacks in terms of flexibility and speed are becoming apparent.

Traditional financial institutions often shy away from high-risk projects. The global market demands fast and flexible methods of entrepreneurial financing to strengthen the guarantee of rights for both the entrepreneur and the investor.

It is precisely due to these shortcomings that non-traditional financing methods, particularly hybrid mechanisms, are becoming increasingly important today. These can accurately be described as securities that combine elements of both debt obligations and equity participation instruments. They are an attractive tool for companies seeking financing without increasing nominal debt or diluting the equity share of existing shareholders.

Among the most widespread types of hybrid financing in developed countries

is mezzanine financing. The concept of mezzanine financing is one of the most advanced and flexible approaches, widely used by companies across developed financial markets worldwide.

Mezzanine is a type of financing that possesses the characteristics of both debt and direct investment. Under this structure, the investor typically does not enter the company's equity but instead provides funds for its development through debt obligations while simultaneously acquiring the right to purchase the borrower's shares at a predetermined price in the future (Pirkova, 2017).

Mezzanine financing first appeared in the USA in the 1980s. In contrast, the first mezzanine financing fund in Russia was established in 2009 under the name Volga River Credit Opportunity (Mokina & Strelnikov, 2017).

The mezzanine market in the USA is quite developed and standardized, with mostly private equity firms operating within it. In the European market, however, mezzanine financing is more often implemented by commercial banks.

The positive aspects of this financing method are that mezzanine creditors demand less collateral than banks, as they intend to cover the risk from the company's future earnings. Furthermore, it allows the company to raise a large amount of capital without selling a substantial share of its equity (Strelnikov, 2017).

Another distinctive feature of mezzanine financing is that, in the event of corporate insolvency (bankruptcy), the repayment of mezzanine debt is considered an intermediate priority. That is to say, the security for the obligations is directed first toward the claims of bank loans (senior debt), secondly toward mezzanine debt, and only then toward the shareholders' claims (Chernikov, 2024).

According to Professor James Fawcett, the main legal challenge in these transactions is the "hierarchy of creditors" (or "creditor hierarchy"). The

mezzanine creditor typically holds a lower level of protection compared to senior creditors (such as banks). Consequently, all procedures concerning payments and the rights in cases of potential insolvency must be clearly stipulated in the legal documentation (Fawcett, 2010).

Mezzanine financing initially emerged in market practice and subsequently found its reflection in the legislation of most developed countries (USA, Great Britain, and Germany). In the USA, mezzanine transactions are regulated by the Uniform Commercial Code (UCC) (USA, n.d.) and the Securities Act of 1933 (USA, 1933). In the European Union member states, there are generally no specific statutes dedicated solely to mezzanine financing. Its legal aspects are primarily regulated within the framework of civil codes, commercial legislation, and the rules governing the activities of investment funds.

In the Russian Federation, according to the Civil Code, mezzanine financing is formalized by signing a loan agreement first, followed by an option agreement. The option agreement stipulates the procedure by which the investor obtains shares or equity stakes belonging to the subject (Chernikov, 2024).

The process of formalizing financing resembles the formalization of other types of investment. Specifically, an enterprise requiring funds first submits an application to a mezzanine fund. The fund conducts an in-depth analysis of the company's financial condition, business model, and growth prospects. The fund and the company agree on the financing terms, including the interest rate, repayment period, and the conditions for conversion into equity. After the agreement is reached, the fund transfers the capital to the company. The company makes interest payments over the agreed period and repays the principal at the stipulated maturity date. If the company is sold or issues an IPO, the fund profits by selling its stake (Sazonov, 2016).

According to Corry Silbernagel & Davis

Vaitkunas (K. Silbernagel & D. Vaytkunas), mezzanine financing can primarily take the form of subordinated debt convertible into equity or redeemable preferred shares. Mezzanine in the form of preferred shares is, in essence, an equity investment, but it maintains priority regarding dividend payments (Silbernagel & Vaitkunas, 2012).

Mezzanine financing is a new form of funding that interlinks the characteristics of debt and equity. It classifies mezzanine through various instruments (subordinated loans, preferred shares, etc.), which implies its subordination to different laws in terms of legal regulation.

L. Tetřevová and J. Svědík divide mezzanine financing into two main types: private mezzanine (Subordinated loans, syndicated loans, "silent" participation) and public mezzanine (Tetřevová & Svědík, 2018).

Subordinated loans are unsecured debts. This type of debt has a lower priority compared to senior debt in case of bankruptcy.

Syndicated loans are large-volume debts provided to a borrower by a group of two or more creditors (a syndicate), participating in pre-agreed shares. In general, syndicated lending is standard lending but does not grant control over the property.

"Silent" participation is a financing method where the investor (informally known as a "silent partner") participates in another person's business through a pledge of capital and, in return, acquires the right to participate in the company's profits but does not assume any obligations to the company's creditors.

Leach and Melicher (Leach & Melicher, 2014) also classify convertible bonds, option bonds, and preferred shares as public mezzanine instruments.

Currently, mezzanine financing is utilized in practice in the following forms (Lurie & Melikhov, 2013):

1) Mezzanine Debt. This typically takes an unsecured form in the USA and a subordinated form in Western Europe. Subordination implies that the creditor is

granted the right to subsequent retention or pledge of the property, meaning the interests of the senior creditor are prioritized. There is also “structural subordination,” where senior creditors conclude debt agreements secured by the assets themselves (i.e., the assets are put up as collateral). Concurrently, the mezzanine creditor provides the loan secured by the shares of the companies that hold the underlying assets.

2) Financing with “Undisclosed” Investor Participation. In this structure, the investor acquires shares in the borrower company but does not assume any liability to the company’s creditors.

3) Financing Secured by the Issuance of Convertible Bonds. These bonds stipulate fixed interest payments and the repayment of the principal debt at the end of the financing term. At the same time, the instrument allows the investor to purchase shares of the borrower company at a predetermined conversion price instead of the return of the principal debt.

4) Financing Secured by the Issuance of Preferred Shares. This involves the issuance of the borrower company’s preferred shares. Such shares grant preferential rights to participate in profits and the liquidation value compared to the holders of the company’s other shares.

In our view, the legal nature of a mezzanine transaction is that of a “mixed contract,” which simultaneously integrates various institutes of the law of obligations. Specifically, this legal construct comprises the following elements:

Principal Debt Obligation (Loan): Debt relations in accordance with Article 732 of the Civil Code of the Republic of Uzbekistan.

Contractual Subordination: A specialized agreement (Intercreditor Agreement) that establishes the hierarchical priority for satisfying creditor claims.

Conversion Rights: An option or warrant allowing the creditor to convert debt into shares or equity interest in the future – a proprietary right (Article 81 of the Civil Code).

Thus, mezzanine financing is a sui generis type of obligation that combines elements of debt and corporate law, positioning the creditor’s legal status higher than a general creditor but lower than a shareholder.

In managing legal risks within mezzanine relations, the judicial practice of developed nations plays a pivotal role. This study identifies two critical doctrines regarding the legal status of mezzanine creditors:

The Doctrine of “Equitable Subordination” (US Experience): Developed by US Federal Courts (e.g., *Benjamin v. Diamond / In re Mobile Steel Co.*) (Benjamin, 1977), this doctrine dictates that if a mezzanine investor unjustifiably interferes in the company’s management, resulting in harm to the interests of other creditors, the court may relegate their claims to the lowest priority. For Uzbekistan, this implies that legislation must clearly define the boundaries of investor interference and their tort liability (liability arising from causing harm).

Priority and Security Issues (UK Experience): Judicial precedents such as *In re Spectrum Plus Ltd* (National Westminster Bank plc v. Spectrum Plus Ltd, 2005) have clarified the nature of the “floating charge” and its position in the creditor hierarchy. Mezzanine creditors often hold second-tier security rights, and their protection is contractually reinforced through Intercreditor Agreements (ICA).

Furthermore, within the Continental legal system of Germany, it has been established that the rights of mezzanine investors are protected by the doctrine of “fiduciary duties.” Under this framework, company directors are held accountable not only to shareholders but also to mezzanine creditors in the event of default.

Discussion

The structure of mezzanine financing involves three primary parties:

The borrower/issuer: The company receiving the financing.

The Senior lender: The most secure creditor, who holds the highest priority in the financing structure.

The Mezzanine lender: The subordinated (secondary) creditor.

The Senior lender is typically represented by large commercial banks, insurance companies, or financial institutions. In the event the company is liquidated or defaults, the proceeds from the sale of assets are first fully repaid to the Senior Lender. A loan agreement is executed between the Senior Lender and the Borrower company, and the company's primary assets (real estate, equipment, and inventory) are provided as collateral.

The Mezzanine lender is the party that ranks after the Senior Lender in terms of repayment priority, meaning they are a subordinated creditor. The main reason for this designation is that when a debtor company goes bankrupt, the mezzanine creditor only receives their share after the claims of the Senior Lender have been fully satisfied. However, they maintain priority over the company's shareholders.

This type of creditor is typically represented by private equity firms, specialized mezzanine funds, or investment banks.

Upon signing the loan agreement between the creditor and the debtor company, this contract is secured by the company's shares or equity stakes; in other words, if the debts are not repaid, the mezzanine lender gains control over the shares.

The legal relationship between the two creditors is precisely defined in a legal document known as the Intercreditor Agreement. This agreement stipulates that the Mezzanine Lender receives payment after the Senior Lender. It also defines how the Mezzanine Lender's right to gain control in the event of default is subordinated to the rights of the Senior Lender.

Mezzanine Lenders are usually not simple financial institutions like the Senior Lender (bank) but are specialized investment funds. Mezzanine Lenders

obtain their funds from private equity firms or specialized mezzanine funds. These funds, in turn, manage capital contributed by investors (such as pension funds, insurance companies, large corporations, or very wealthy individuals). Therefore, the Mezzanine Lender manages the money of their own investors. These funds are prepared for higher risk (as they are second in line) but, in return, demand a higher yield (ranging from 12% to 20%) and an equity stake (Silbernagel & Vaitkunas, 2010).

Different jurisdictions have established various norms for the regulation of mezzanine financing. Specifically, in the United Kingdom, Mezzanine financing is primarily governed by common law and the following statutes:

Table 1
Legislative Acts Regulating Mezzanine Financing in the United Kingdom

Main Statute/ Rule	Relevance to Mezzanine Financing
Insolvency Act 1986 (United Kingdom, 1986)	In the event of company bankruptcy, this Act determines the priority order of creditors, particularly the Mezzanine Lender, and the process for foreclosure on collateral. The Mezzanine Lender's secondary position after the senior lender is protected within the framework of this Act.
Common Law Rules	Regulate the validity of the mezzanine agreement (loan contract), Covenants (obligations), and Default clauses. They confirm that rights in the UK are determined based on explicit contractual provisions, rather than "ownership" or "control."
Companies Act 2006 (United Kingdom, 2006)	Defines the rules governing the Equity Kicker (the right to convert to equity) and the Directors' Duties.
Land Registration Act 2002 (United Kingdom, 2002)	If the Mezzanine transaction indirectly involves real estate in certain cases, this Act dictates the procedure for the registration of real estate collateral.
Financial Services and Markets Act 2000 (FSMA 2000) (United Kingdom, 2000)	May partially regulate specific financial operations related to the equity component of mezzanine financing and investor protection requirements.

One of the most significant legal risks in mezzanine financing in the USA is the “Doctrine of Equitable Subordination,” stipulated in Section 510 of the US Bankruptcy Code (US Bankruptcy Code, 2011). The purpose of this doctrine is to prevent creditors from abusing their status during insolvency proceedings to gain an unfair advantage at the expense of other creditors.

When mezzanine investors acquire control over the company (e.g., through an Equity Kicker) or deeply intervene in its management, they risk being reclassified as an “insider” and may be subjected to this doctrine.

This section of the Code grants broad powers to the court. Pursuant to it, even if a claim initially holds a high priority, the court may relegate it to a lower priority. As a result, the Mezzanine Lender’s claim might fall even below the claims of other unsecured creditors.

To invoke the “Equitable Subordination” doctrine, US federal courts must prove three mandatory conditions (or requirements) during the examination of the case. These are the requirements that Mezzanine Lenders must observe with the utmost scrutiny in their activities:

Table 2

The Three Mandatory Requirements Considered by US Federal Courts when Reviewing a Case (for Equitable Subordination)

Requirement	Title	Content
1st Requirement	Inequitable Conduct	Some form of inequitable, fraudulent, or harmful conduct must have been committed by the claimant (Mezzanine Investor). This could involve, for instance, managing the company solely for their own benefit or intentionally concealing financial information.

2nd Requirement	Injury or Unfair Advantage	The inequitable conduct must have either caused concrete harm to other creditors or granted the claimant (Mezzanine Investor) an unfair advantage.
3rd Requirement	Consistency with the Code	The subordination of the claim must not be inconsistent with the other provisions of the Bankruptcy Code. (This requirement is usually fulfilled automatically in most cases).

The risk of mezzanine funds being subjected to the “Equitable Subordination” doctrine sharply increases, especially when they begin to intervene in the operational management of the borrower company. If the Mezzanine Lender acts not as a simple creditor, but as a manager, the court may find them to be an “insider” and deem the company’s pre-bankruptcy transactions to have been conducted solely for the mezzanine lender’s benefit. This is assessed as an inequitable act, and their claim is consequently subordinated.

While mezzanine financing in the Anglo-Saxon legal system (USA, UK) is primarily based on collateral security and the nature of “Debt,” in the Continental law system represented by German legislation, this instrument is regulated at the intersection of “corporate partnership” and “law of obligations.”

In Germany, the legal basis for mezzanine financing is not defined by a specific statute, but is implemented through two main instruments established by the German Commercial Code (Handelsgesetzbuch – HGB) (German, n.d.) norms: “Silent Partnership” (Stille Gesellschaft) and the Right to Participate in Profits (Genussrechte).

The most common form of raising mezzanine capital in Germany is the “Silent Partnership” (Stille Gesellschaft), regulated under Sections 230–237 of the Commercial Code. The essence of this model is that the

investor contributes capital to the company but remains invisible to external third parties (creditors or customers).

According to Section 230, the capital contributed by the silent partner (mezzanine investor) transfers entirely to the property of the entrepreneur (the company). Unlike the US model, the investor here does not hold a “collateral right” over the company’s assets but instead becomes an internal partner of the company.

The hybrid nature of this model is demonstrated in Section 231:

Participation in Profit: The investor has the right to receive a share of the enterprise’s profit (a mandatory condition).

Participation in Loss: The most critical aspect is that the investor can participate not only in profit but also in loss. If the company ends the financial year with a loss, the investor’s capital contribution is reduced by the amount of that loss. This feature differentiates mezzanine from a simple loan and economically brings it closer to equity capital.

From a legal control perspective, Section 233 prohibits the investor from interfering in the company’s management but grants them the authority to examine financial reports and review accounting books (Information Rights). This is similar to the Information Covenants used in the USA.

Pursuant to Section 236, if the company is declared insolvent, the mezzanine investor (provided their contribution has not been entirely eliminated by losses) can claim their remaining funds and appear as a creditor. However, a “subordination agreement” is typically applied in mezzanine transactions. Under this agreement, the mezzanine investor consents to their claims being satisfied after all other creditors but before the shareholders.

Another distinct and widespread form of mezzanine financing in German corporate law is the “Right to Participate in

Profits” (Genussrechte or Genussscheine). By its legal nature, this instrument is a classic hybrid instrument positioned between equity capital and debt obligation, possessing a unique legal status.

Unlike the “Silent Partnership,” the “Right to Participate in Profits” (Genussrechte) is not regulated in detail as a separate institute within the Commercial Code. Its legal basis relies on the principle of “freedom of contract” enshrined in the German Civil Code.

From the perspective of mezzanine financing, the Genussrechte is distinguished by the following specific characteristics:

1) **Absence of Management Rights:** The holder of the Genussrechte is not considered a company shareholder. They do not have the right to vote in general meetings or to intervene in the company’s management. This feature is particularly attractive to founders who wish to retain control of the company.

2) **Priority of Proprietary Rights:** Although lacking management rights, the investor, much like a shareholder, has the right to receive a share of the company’s net profit. According to the contract terms, this can be a fixed interest rate or a variable payment contingent on the company’s financial results.

3) **Capital Repayment:** Unlike shares, the Genussrechte is typically term-limited. Upon maturity of the contract, the investor has the right to reclaim their contributed capital at the nominal value (sometimes with an additional premium).

To prevent the Genussrechte from becoming a simple debt obligation and to ensure it obtains “mezzanine” status, a special subordination clause is included in the contract. Pursuant to this clause, should the company become insolvent, the claims of the Genussrechte holder are satisfied only after all other creditors (banks, suppliers) have been satisfied, but before the shareholders. It is precisely because of this condition that German banking law and Basel standards recognize funds raised via

Genussrechte as the company's "economic equity."

In conclusion, German legislation has opted to regulate mezzanine financing not through a mechanism of rigid collateral and foreclosure (as in the US model), but through flexible contractual relationships between the investor and the entrepreneur. This approach offers alternative legal solutions for countries belonging to the Continental legal system, such as Uzbekistan.

The German Genussrechte model holds significant importance for Uzbekistan's legislation. This is because the instrument does not require the adoption of a new law but can be implemented through the "freedom of contract" principle within the framework of the existing Civil Code. Specifically, the experience of Genussrechte can be utilized in introducing "Profit-Participating Bonds" or special "Investment Loan Agreements" in Uzbekistan. The aim is to create a subordinated mechanism that guarantees investors a higher dividend from company profits without granting them voting rights, while ensuring subordination in the event of bankruptcy.

The stability of the mezzanine financing market in developed countries is ensured not only by the terms of the transactions but also by regulating the activities of the capital owners – the investment funds. In this regard, the European Union's Directive 2011/61/EU of 8 June 2011 on Alternative Investment Fund Managers (AIFMD) (European Union, 2011, June) is the most crucial legal document. Adopted in response to the aftermath of the 2008 global financial crisis, this Directive introduced strict requirements for the activities of mezzanine funds, hedge funds, and private equity funds.

The main objective of AIFMD is to ensure the transparency of funds that invest in non-traditional financial instruments and to prevent systemic risks. The Directive regulates not the funds themselves, but the companies that manage them. Specialized

funds engaged in mezzanine financing fall under the category of "Alternative Investment Funds" according to EU legislation, and their managers are required to be licensed based on the requirements of this Directive.

Articles 26–30 of the Directive constitute the key provisions that impose specific restrictions on the activities of Mezzanine and private equity funds. The objective of these norms is to prevent investors from immediately "breaking up and selling off" the company's assets and weakening its financial base after gaining control over the debtor company.

These rules apply only when a Mezzanine or Private Equity fund gains control by acquiring more than 50% of the company's voting shares. The primary focus is on non-listed (i.e., private) companies. The core essence of Articles 26–30 is the introduction of a "24-month freeze" period. Starting from the date the investor acquires control, they are strictly prohibited from taking any action that could damage the company's financial stability for the subsequent two years (24 months).

Furthermore, during this period, Mezzanine funds or the companies managing them are prohibited from making the following three main financial decisions:

Capital reduction: They are not allowed to reduce the company's authorized capital, meaning funds cannot withdraw a portion of the capital they invested in the short term. This serves as a "safety cushion" for the company's creditors (senior banks).

Share buybacks: Operations aimed at the company purchasing its own shares are prohibited, as this also leads to the outflow of capital from the company.

Large dividend distributions: Investors who have gained control are prevented from quickly extracting the company's accumulated reserves or assets in the form of high dividends or other payments.

Articles 22–23 of the Directive impose strict information disclosure obligations on mezzanine funds. Specifically,

funds are required to report regularly to the national regulator (e.g., BaFin in Germany, AMF in France) regarding their investment strategies, key risks, and the extent of financial leverage they employ. Furthermore, funds must provide their investors with detailed information about their methods for asset valuation and their liquidity management system.

In accordance with the Directive's requirement, mezzanine funds must appoint an independent Depositary to hold their assets (cash and securities) and monitor cash flows (Article 21). Additionally, the valuation of mezzanine assets (shares and debt obligations) must be performed by experts who are independent of the fund manager, or by a functionally segregated internal department (Article 19).

A systematic analysis of the foreign models studied reveals not only their achievements but also the limitations regarding their transformation into the national legal system.

The US Model relies primarily on debt instruments and is characterized by a high degree of contractual freedom. Its main advantage is the extreme flexibility of financing terms. However, its primary legal risk is associated with the "Lender Liability" doctrine. If a mezzanine investor interferes excessively in the debtor company's management decisions, the court may recharacterize their status from a creditor to an equity holder and relegate their claims to the lowest priority. For systems like Uzbekistan, where judicial precedent is less developed, this model creates significant legal uncertainty.

The German Model is based on the institution of the "Silent Partnership" (Stille Gesellschaft), bringing mezzanine financing closer to equity. Its advantage lies in the clear statutory definition of priorities and the legally fortified role of the investor in corporate governance. However, this model is less flexible than the US model, and the mechanisms for rapid investment exit (exit strategy) are more complex.

The UK Model relies on "contractual subordination." Its strength lies in creating an understandable environment for international investors through standardized LMA contracts. Nevertheless, the rigid hierarchy within the UK's insolvency legislation compels mezzanine creditors to utilize complex and costly legal instruments, such as the "floating charge."

Doctrinally, two approaches were analyzed in classifying mezzanine financing: as an "independent contract" or as a "mixed contract."

In the author's position, mezzanine financing should be recognized within the civil law system of Uzbekistan as a mixed contract and, simultaneously, as a sui generis (unique) obligation. We provide the following legal grounds for this classification:

Institutional Complexity: A mezzanine transaction encompasses elements of debt under Article 732 of the Civil Code (law of obligations), freedom of contract under Article 354 (subordination agreements), and the transfer of property rights (options). These elements are inseparable and are directed toward a single investment objective.

Uniqueness of Contractual Subordination: The primary feature distinguishing mezzanine from an ordinary loan is its "junior priority." This is not merely a contractual term but a special legal status involving the creditor waiving their rights or limiting them in favor of another creditor.

Therefore, labeling mezzanine financing simply as a "type of loan" overlooks its corporate governance components. Classifying it as a "subordinated loan agreement with elements of investment partnership" accurately reflects its legal nature within national legislation and serves to fill legal gaps when drafting these transactions in practice.

Conclusion

Hybrid financial instruments are an integral part of the modern financial and legal system, and their legal status and regulatory environment vary significantly

depending on the jurisdiction. This study aimed to investigate the complex legal nature of mezzanine financing as a hybrid instrument positioned between “Debt and Equity.” The legislation and market practices of developed countries such as the USA, the UK, and Germany were analyzed comparatively.

The results obtained indicate that the effective operation of mezzanine financing relies on three main pillars: statutory regulation, contractual standardization, and institutional oversight.

The analysis revealed a fundamental difference between the Continental (German) and Anglo-Saxon (US/UK) legal systems. While US and LMA standards primarily regulate the relationship through “debt” mechanisms via collateral and priority of claims (subordination), the German institution of “Silent Partnership” brings the financing closer to an “equity” relationship by sharing the company’s losses.

The application of LMA standards (specifically the Intercreditor Agreement) fills legal gaps, reduces transaction costs, and increases market confidence through mechanisms like “Payment Blockage” and “Standstill Periods.”

The European Union Directive and the US “Equitable Subordination” Doctrine ensure the ethical dimension of mezzanine financing. These mechanisms prohibit investors from selling off assets or gaining an unfair advantage at the expense of other creditors after seizing control of the company.

The importance of mezzanine financing lies in its ability to stimulate innovation, deepen the capital market, and provide flexibility that traditional financing instruments cannot offer. The effective use of this tool is undoubtedly a crucial prerequisite for the diversification and long-term, sustainable development of the country’s economy.

As a result of the study, the following author’s definition and legal model of

mezzanine financing were developed as a scientific novelty:

Mezzanine Financing is a legal relationship aimed at financing the investment projects of business entities, integrating elements of the law of obligations (debt) and corporate law (equity participation), and characterized by contractual subordination (lowering the payment priority) and conversion rights (options).

To establish a comprehensive legal framework for mezzanine financing in the Republic of Uzbekistan, the following specific conceptual amendments are proposed:

1) Within the Civil Code of the Republic of Uzbekistan:

Article 732: An amendment should be introduced to institutionalize the concept of “Subordinated Debt” and its legal status. This would ensure that an agreement between the creditor and the debtor to satisfy debt claims only after other creditors’ claims are met carries full legal force.

Article 354: The legal status of the “Intercreditor Agreement” should be formally recognized as part of the principle of freedom of contract. This would allow the mezzanine investor and the bank (senior creditor) to contractually regulate the priority of their respective claims.

2) Within the Law “On Insolvency”:

Article 150 (Priority of satisfying creditor claims): A specific tier for mezzanine creditors should be established (e.g., positioned after unsecured creditors but before the shareholders/founders). This provides a guarantee that the investor will not be relegated to the status of an “equity holder” during bankruptcy proceedings.

3) Within the Law “On Joint-Stock Companies and Protection of Shareholders’ Rights”:

Introduce the institute of “Observer Rights” for mezzanine investors. This would allow the investor to attend meetings of the Supervisory Board and receive information without voting rights. Such a mechanism

ensures the investor's oversight while protecting them from the risks of "Equitable Subordination" found in US practice.

Adapt norms regarding hybrid securities (e.g., new types of convertible preferred shares) to align with the specific characteristics of mezzanine financing.

4) Within the Law "On Limited Liability Companies":

Incorporate the concept of a "Convertible Loan Agreement." This norm would allow a loan received from an investor to be converted into a share of the company's equity (capital) after a certain period or upon the fulfillment of specific conditions, subject to a resolution by the general meeting of the LLC participants.

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CONCEPT AND CHARACTERISTICS OF TERRORISM FINANCING

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Abstract. The study is devoted to the legal nature and theoretical justification of the concept of terrorism financing, which is considered as an independent crime that emerged as a result of the development of international and national anti-terrorism legislation. The paper analyzes the subject and topic of the research by establishing the connection between terrorism, crimes of a terrorist nature, and the financial mechanisms that ensure their commission. The aim of the research is to identify problems related to the legal definition of terrorism financing and to substantiate the need for its normative improvement. The relevance of the study is determined by the absence of a unified approach in legislation and doctrine, which complicates law-enforcement practice and the identification of this act. The methodological basis consists of comparative-legal, systemic, and formal-legal methods. As a result, significant differences between international and national definitions of terrorism and terrorism financing were identified, demonstrating the incompleteness of current formulations and the need for an expanded interpretation. The practical significance lies in the possibility of applying the proposed conclusions to improve criminal legislation and mechanisms for combating terrorism financing. It is concluded that clarifying the normative definition, taking into account international standards, and incorporating the category of crimes of a terrorist nature into legal regulation are essential for the proper qualification of terrorism financing.

Keywords: Terrorism, crimes of a terrorist nature, international standards for combating terrorism, terrorism financing, legal regulation, criminal liability, terrorist act, national legislation

Introduction

Considering that terrorism financing is only one component of terrorist activity, which cannot exist without terror itself, it is

important to examine the epistemological prerequisites for the emergence and development of liability for acts containing the characteristics of this extremely

dangerous social phenomenon. Studying the formation and development of law and doctrines in the field of combating crime through a historical perspective serves as an effective means for understanding the modern legal system, emphasizing the necessity of conducting such research.

Analysis of the conceptual characteristics and notions that define the essence of terrorism will allow for the development of ways to further improve national anti-terrorism legislation, including aspects of combating terrorism financing. The need for such research is also underscored by the lack of a unified understanding of the concept of terrorism in modern science.

The concept of terrorism in the Law of the Republic of Uzbekistan "On Combating Terrorism" is defined as violence, the threat of its use, or other criminal acts that create a danger to life, personal health, destruction (damage) of property and other material objects, and are aimed at compelling a state, international organization, individual or legal entity to commit or refrain from committing any actions, complicating international relations, violating sovereignty and territorial integrity, undermining state security, provoking armed conflicts, intimidating the population, destabilizing the socio-political situation, in order to achieve political, religious, ideological, and other goals, for which liability is provided by the Criminal Code of the Republic of Uzbekistan.

The Criminal Code of the Republic of Uzbekistan, in turn, provides the following definition of this crime in the disposition of the article:

Terrorism is violence, the use of force, or other acts that endanger a person or property, or the threat of their commission to compel a state body, an international organization, their officials, a natural or legal person to perform or refrain from performing any activity in order to complicate international relations, violate sovereignty and territorial integrity,

undermine state security, provoke war, armed conflict, destabilize the socio-political situation, and intimidate the population.

This definition differs to some extent from the one provided in the Law "On Combating Terrorism."

In the encyclopedic dictionary, the word "Terrorize" means (from French "terroriser," from Latin "terror" - fear, horror) - to pursue by threatening with reprisal, murder, to keep in a state of fear (Prokhorov, 1981), and in S.I. Ozhegov's dictionary: "Terror is physical violence, up to and including physical elimination, against political opponents" (Ozhegov, 1978).

A.A. Kirichenko believes that terrorism should be understood as the ideology of violence and the practice of influencing decision-making by state authorities, local self-government bodies, or international organizations, associated with intimidating the population and/or other forms of unlawful violent actions (Kirichenko, 2010).

J. Ibrohimov, in his dissertation (Ibrohimov, 2018), proposes to distinguish a category of "Crimes of a terrorist nature, for which he formulates the following definition: *Actions (or inaction) aimed at facilitating, creating favorable conditions for the commission of a terrorist crime, developing in a person the necessary skills for carrying out terrorist acts, limiting the ability to combat and prevent these crimes, as well as embodying the nature of terrorist activity.*"

In this case, Ibrohimov quite logically separates crimes of a terrorist nature into a distinct category. This means that today there exists not only the crime of terrorism but also a number of other crimes that have a terrorist nature.

In our view, the concepts mentioned above and the analysis by scholars, including the definitions established in the national criminal legislation of the Republic of Uzbekistan, do not fully reveal the essence of such a crime as terrorism financing. This incomplete regulatory framework, in turn, creates uncertainty in

identifying and qualifying acts related to terrorism financing. This is because the specified crime is historically and logically derived from terrorism and represents its integral part. Consequently, the accuracy and comprehensiveness of the terrorism definition are crucial for a correct understanding and effective counteraction to the financing of terrorist activities.

Based on this, we can conclude that the current definition of terrorism in national legislation is neither complete nor sufficient to ensure comprehensive counteraction not only to terrorism financing but also to terrorist crimes as a whole. It should be noted that the existing formulations predominantly reveal the essential features of terrorism as a phenomenon but do not cover the entire spectrum of terrorist criminal acts, including various forms of participation, assistance, organization, preparation, and facilitation of terrorist acts.

Analysis of current norms allows us to assert that the definition of the crime “terrorism” in its current form does not reflect all modern manifestations of terrorism, which are evolving due to technological progress, the transnational nature of terrorist networks, and the expansion of methods for influencing public safety. In the modern world, terrorist activity extends far beyond the classical forms of violent attacks and includes cyberterrorism, propaganda and recruitment through digital platforms, the use of cryptocurrencies to finance terrorist groups, logistical and information support, as well as other covert forms of assistance.

In light of this, it appears necessary to expand and clarify the legislative definition of terrorism and terrorist crimes. It should include not only traditional indicators of terrorist activity but also modern methods, forms, and tools for its implementation. This will ensure more accurate qualification of the relevant acts, increase the effectiveness of law enforcement agencies, and eliminate existing gaps in the detection, prevention,

and investigation of crimes related to terrorism financing.

Methods

The conducted research has demonstrated that unveiling the essence of terrorism and terrorist financing is impossible without identifying their interrelationship and analyzing existing legal approaches enshrined in both national legislation and international legal acts. As part of this work, various definitions of terrorism were thoroughly examined, including normative definitions found in the legislation of the Republic of Uzbekistan, acts of international organizations, as well as in scholarly literature. It has been established that the existing formulations reflect only individual elements of terrorism and do not encompass the full spectrum of acts that modern doctrine and international standards classify as crimes of a terrorist nature. This, in turn, leads to significant difficulties in qualifying acts related to terrorist financing, as a precise understanding of predicate offenses is a key condition for the correct application of criminal law norms.

The study pays special attention to distinguishing between the concepts of “terrorism,” “terrorist act,” and “crimes of a terrorist nature,” as these categories form the basis of international legal regulation, including the FATF Standards. Analysis of international treaties – in particular, the 1999 International Convention for the Suppression of the Financing of Terrorism and UN Security Council Resolution 1373 – revealed that terrorism in international practice is interpreted significantly more broadly than in national legislation, encompassing both specific acts of aggression and a wide range of related activities. The study demonstrates that the financing of terrorism is not limited to providing monetary funds, but includes various forms of material, resources, and other support aimed at facilitating the preparation, execution, and subsequent operation of terrorist activities.

A theoretical analysis of the historical aspects surrounding the formation of the concept «terrorism financing» has demonstrated that its current understanding evolved under the influence of global events in the late 20th and early 21st centuries. This understanding was largely shaped by the intensification of international counter-terrorism measures following the September 11, 2001, terrorist attacks. The expansion of the FATF mandate and the adoption of updated international standards have led to a systemic shift in approaches to evaluating the financial flows of terrorist structures, necessitating appropriate modernization of national legislation.

The methodological foundation of this research comprised a set of scientific methods that ensured a comprehensive and thorough analysis of the problem under study. To enhance methodological transparency and validity, the work separately outlines the advantages and limitations of each applied method, as well as the specific aspects that each method revealed.

The comparative legal method was key, allowing for the comparison of international and national approaches to defining terrorism and terrorism financing. Its advantage lies in the ability to identify legal discrepancies and determine directions for legislative harmonization. The method's limitation is the dependence of conclusions on the available comparative regulatory framework. In this study, the method was used to analyze differences between terrorism definitions in UN acts, FATF standards, and national legislation, as well as to identify gaps in regulatory framework.

The formal-legal method enabled the examination of content, structure, and logical interrelationships of legal norms regulating liability for terrorist crimes. Its advantage is the precise interpretation of concepts and norms; however, it is limited by the inability to account for factual circumstances and their practical application. In this study, the method was

used to analyze provisions of the Criminal Code of the Republic of Uzbekistan and to assess the accuracy of wording related to definitions of terrorism and terrorism financing.

The system-structural method allowed for the consideration of terrorism financing as an element of a broader counter-terrorism system, including operational-search activities, financial monitoring, international cooperation, and preventive measures. The method's advantage is its ability to demonstrate interrelationships between various legal and institutional mechanisms. Its limitation is a high degree of abstraction, requiring further concretization. In the study, this method was used to determine the place of terrorism financing within the overall system of combating terrorist threats. Thus, the comprehensive application of these methods not only ensured depth and thoroughness of scientific analysis but also provided the research with a logically sound structure and allowed for a more substantiated identification of problems and directions for improving national legislation.

Thus, the comprehensive application of the indicated methods allowed not only to ensure the depth and comprehensiveness of scientific analysis, but also to give the research a logically verified structure, as well as to more reasonably identify problems and directions for improving national legislation.

The selection of research objects – the concepts of terrorism, terrorist act, crimes of a terrorist nature, as well as norms of international and national criminal legislation – is determined by the fact that these constitute the theoretical and normative foundation for correctly understanding and legally qualifying terrorism financing. The obtained results confirm the need for further improvement of legal regulation in this sphere and integration of international standards into national legislation, which is a necessary

condition for effectively countering terrorism-related crimes.

Results

The conducted analysis allows us to assert that researching the legal nature of terrorism financing is impossible without establishing its direct dependence on the content and essence of terrorism as a fundamental phenomenon. International practice confirms this position. Thus, the FATF Standards emphasize that any act of facilitating terrorist activity is considered an integral part of it, which directly links financing to the very concept of terrorism. Furthermore, the FATF recommendations (in particular, Special Recommendation II) require states to formulate the definition of terrorism financing based on a broad and comprehensive understanding of terrorist activity.

Since the financing of terrorism is a derivative crime, the boundaries of its legal content depend on the completeness and accuracy of the definition of terrorism in national legislation. Comparison shows that the current definition in the legislation of Uzbekistan (for example, Article 155 of the Criminal Code) focuses primarily on acts of violence and threats, while modern international approaches include preparatory, organizational, informational, and other forms of supporting terrorist activity. Consequently, in law enforcement practice, situations arise where actions objectively aimed at promoting terrorism (e.g., providing digital services, cryptocurrency transfers, or logistical support) do not always fall under existing formulations.

The issue of the legal nature of terrorism financing itself is of particular relevance. Analysis of verdicts shows that a significant portion of the identified crimes are one-time offenses. For example, in 2019-2024, cases of one-time transfer of funds to structures affiliated with international terrorist groups were recorded, where there was no systematic approach, but the intent was clearly aimed at facilitating

terrorist activities. Such cases confirm that the financing of terrorism is not always a long-term or organized process – it can be expressed in single deliberate actions, equivalent in their danger to a full-fledged criminal act.

International practice also indicates the need for an expanded understanding of the content of financing. Thus, in the decisions of courts of European states (for example, Germany, France, and the Netherlands), it has been repeatedly recognized that providing intangible resources, such as renting housing for members of terrorist organizations, transferring mobile devices, providing transportation, or even information consulting, can be a form of financing, as it creates conditions for the functioning of a terrorist structure.

Considering these trends, it seems appropriate to define terrorism financing as the deliberate provision, collection, or transfer of any monetary funds, property benefits, digital assets, intangible resources, or services aimed at supporting the preparation, commission, or facilitation of terrorist acts, as well as the activities of terrorist organizations or individual participants in terrorist activities. This approach aligns with the provisions of the 1999 International Convention for the Suppression of the Financing of Terrorism and the FATF recommendations and allows for consideration of modern forms of financing, including cryptocurrency instruments and electronic payment systems.

In summary, it is essential to improve the national regulatory framework through the following measures:

- Refining the definitions of “terrorism” and “financing of terrorism” to align with international standards and address modern threats;
- Ensuring a more accurate legal qualification of acts, which will enhance the effectiveness of counter-terrorism efforts and bring national legislation into harmony with global trends.

Discussion

Considering the essence of the crime of terrorism financing and its social danger, it is advisable to use the concepts of «crimes of a terrorist nature» and “terrorist act,” which are not defined in the legislation of the Republic of Uzbekistan.

In this regard, we partially agree with J. Ibrohimov’s opinion that crimes of a terrorist nature are actions and inactions, which fully corresponds to the definition of crime in Article 14 of the Criminal Code of the Republic of Uzbekistan. However, we cannot agree with his view that these crimes represent an activity. As is widely known, activity is understood as actions performed two or more times (Shubina, 2012). Based on the analysis of crimes, it is precisely the crimes committed only once that constitute the majority of offenses.

As we can see, not only terrorism but also other crimes of a terrorist nature are important for the predicate offense of terrorism financing. This is also confirmed by the FATF Standards (FATF, 2012). In these standards, the FATF uses the term “Terrorist act,” which is the main definition for qualifying the crime of terrorism financing. According to FATF Standards, a Terrorist act includes:

(a) an act that constitutes an offense specified in the following treaties:

(i) Convention for the Suppression of Unlawful Seizure of Aircraft (1970);

(ii) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971);

(iii) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973);

(iv) International Convention against the Taking of Hostages (1979);

(v) Convention on the Physical Protection of Nuclear Material (1980);

(vi) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation,

supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);

(vii) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (2005);

(viii) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (2005);

(ix) International Convention for the Suppression of Terrorist Bombings (1997) and

(x) International Convention for the Suppression of the Financing of Terrorism (1999).

(b) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

As we can see, terrorism is not the only predicate offense for terrorist financing, which is also confirmed by the FATF Standards.

The concept of terrorist financing emerged in light of the increasing number of terrorist acts in various parts of the world, as well as the realization that these acts require financial resources for their execution and sustainment.

An important stage in shaping the understanding of terrorist financing occurred in the 1980s-1990s, when the international community began to pay attention to the threat of terrorism as a global phenomenon.

The concept of terrorist financing began to be actively used in international documents and organizations in the late 1990s and early 2000s. However, it is important to note that the idea of controlling the finances of terrorist organizations can be traced in a number of resolutions and decisions even earlier.

One of the first significant milestones in the development of this topic can be attributed to the creation of the Financial Action Task Force (FATF). FATF was established in 1989 as a response to the financial aspects of combating drug crimes and money laundering, but its mandate was later expanded to include terrorism financing issues. In October 2001, FATF broadened its mandate to encompass aspects related to financing terrorist acts and activities of terrorist organizations. This expansion of the mandate emphasized the importance of combating the flow of funds provided to terrorist groups to carry out their activities (Neglyad & Lafitskaya, 2022). Thus, FATF became one of the first international bodies actively engaged in countering money laundering from criminal activities and the financing of terrorism.

The term “financing of terrorism” itself and its active use in documents of international organizations and countries can be linked to events in the late 1990s and early 2000s, including the post-9/11 surge of interest in security issues following the terrorist attacks in the USA on September 11, 2001.

The concept of “financing of terrorism” in an official document first appeared in the International Convention for the Suppression of the Financing of Terrorism of 1999. This marks the first instance when the term “financing of terrorism” was used in official international documents in the context of counter-terrorism measures.

UN Security Council Resolution No. 1373, adopted on September 28, 2001, at the Council’s 4385th meeting, also addresses issues of terrorist financing and counterterrorism efforts.

Thus, the term “terrorism financing” began to be actively incorporated into international discourse and official documents starting from the late 1990s and more extensively after the events of September 11, 2001.

FATF Recommendation No. 5 emphasizes the need to criminalize

terrorism financing in accordance with the provisions of the 1999 International Convention for the Suppression of the Financing of Terrorism. This recommendation requires states to implement legislative and law enforcement measures aimed at suppressing and punishing actions related to providing financial support to terrorist organizations and their activities.

The International Convention for the Suppression of the Financing of Terrorism and UN Security Council Resolution No. 1373 define it as the collection or provision of funds by citizens, with the explicit intention of using these funds to commit terrorist acts or with full knowledge that they will be used to support and carry out terrorist actions.

The Law of the Republic of Uzbekistan “On Combating the Legalization of Proceeds from Criminal Activity, Financing of Terrorism and Financing of the Proliferation of Weapons of Mass Destruction” defines the financing of terrorism as follows: Financing of terrorism is an act that poses a threat to society and is subject to criminal prosecution in the Republic of Uzbekistan. It is aimed at ensuring the existence, functioning, and financing of a terrorist organization and also includes traveling abroad or moving through the territory of the country to participate in terrorist activities. Furthermore, this includes the preparation and commission of terrorist acts, as well as directly or indirectly providing or collecting any funds, resources, or services for terrorist organizations or individuals supporting or participating in terrorist activities.

Etymologically, the word “finance” means providing funds. However, in the context of international law, the specific definition of “terrorism financing” indicates the need for a broader interpretation of this concept. As V.A. Kazantsev states, one cannot limit oneself to the narrow meaning of the verb “finance” as merely providing monetary funds; it is necessary to

understand more deeply the essence of the phenomenon defined by the term “terrorism financing.” If this concept were limited only to providing funds, there would be no need to formulate its precise definition in international law.

It is important to note that the expression “financing terrorism” is closely linked to the successful completion of planned actions or operations. The Latin word “finis” translates to “limit,” “boundary,” or “end,” while the Old French verb “finer” means “to bring something to a successful conclusion, for example, to pay or settle.” From this, we can infer that the essence of the concept “financing” lies in gathering funds for the purpose of successfully completing a venture or operation. In other words, “to finance” means to provide sufficient monetary funds and other valuables to meet needs or resource requirements. Considering this, we can identify the key components of the concept of “financing.” Based on this understanding, we can say that the components of this concept involve the process of implementation using financial resources or assets such as currency, cash, stocks, capital, and securities. This process includes the allocation of these specified funds according to their intended purpose.

According to S.V. Muradyan, “Terrorism financing” represents the deliberate collection or provision of funds or other property, including associated rights, with the purpose of using them to commit criminal acts that endanger human lives, cause significant material damage, or lead to other socially dangerous consequences. Such actions are carried out to intimidate government officials, groups of people, or the population as a whole, or to compel a government or international organization to take certain actions or refrain from them.

According to J. Ibrohimov, “Terrorism financing refers to activities aimed at ensuring the existence, functioning, and financing of a terrorist organization; facilitating travel abroad or movement

through the territory of the Republic of Uzbekistan to participate in terrorist activities; preparing and committing terrorist acts; directly or indirectly (through third parties) providing or collecting any funds, resources, material or economic incentives; or rendering other services to terrorist organizations or individuals assisting or participating in terrorist activities.”

A historical analysis shows that the concept of terrorist financing evolved gradually as the international community recognized that terrorism cannot exist without stable financial support. Beginning in the 1980s–1990s, global attention shifted to terrorism as a transnational threat, and international documents increasingly emphasized the need to control the financial flows enabling terrorist groups. This development became especially pronounced in the late 1990s and early 2000s, when the term “terrorist financing” was formally incorporated into key instruments, including the 1999 International Convention for the Suppression of the Financing of Terrorism and subsequent UN Security Council resolutions. These documents introduced an expanded understanding of terrorist financing, defining it as the provision of any assets with the knowledge that they may be used to support terrorist acts – regardless of the source of these assets or whether an act of terrorism has actually occurred.

In parallel, international practice demonstrated that terrorism is not the sole predicate offense for terrorist financing, a position firmly established in the FATF Standards. Funds used for terrorist purposes are often generated through unrelated criminal activities such as drug trafficking, human trafficking, smuggling or fraud, which shows that terrorist financing forms part of a broader criminal system rather than a direct extension of terrorism alone. Earlier UN resolutions, even before the formal terminology appeared, already required states to prevent material and financial support to terrorist organizations,

illustrating a long-standing recognition that disrupting financial resources is essential to counterterrorism efforts. Taken together, these trends show that terrorist financing has progressively emerged as an independent criminal phenomenon, encompassing a wide range of acts that enable the functioning of terrorist structures beyond the commission of terrorist acts themselves.

Conclusion

In this context, many researchers also come to the conclusion that financing terrorism is an activity. However, in our opinion, this statement does not fully correspond to the concept of financing terrorism, which is regulated by international acts as mentioned above. This is because statistics show that in recent years, no repeated crime of terrorism financing has been initiated in the territory of the Republic of Uzbekistan. This means that this crime cannot be classified as an activity.

In our opinion, the disposition of terrorism financing cannot reflect the essence of terrorism financing as it was originally intended. Therefore, we believe it would be correct to modify it based on our observations made above.

In general, the concept of financing terrorism refers to the process of providing or collecting funds that are used consciously or with clear intent to support, organize, or carry out terrorist acts and crimes of a terrorist nature. This process can be carried out through various methods and means, either directly or indirectly, with the aim of providing financial resources for the planning and implementation of terrorist

activities, which poses a threat to the security of society and world order.

Based on all of the above, we have concluded that the financing of terrorism is not only an ongoing activity but can also be committed as a one-time act and can represent separate, independent, one-time actions. In this regard, we propose the following author's definition of the concept of "Terrorism financing": "Terrorism financing is the intentional provision or collection of funds, material or non-material benefits, or services to support, organize, or carry out terrorist acts, terrorist activities, as well as to maintain a terrorist organization, terrorist, or terrorist activity."

It is also proposed to introduce the following amendments and additions to the Criminal Code of the Republic of Uzbekistan:

1. It is proposed to replace the word "provision" with the word "maintenance" in the disposition of Article 155³ of the Criminal Code (in the Russian text).

2. The following wording of the disposition of Article 155³ of the Criminal Code is proposed:

Article 155³. Financing of terrorism

Financing of terrorism, that is, the deliberate provision or collection of funds or property, intentionally or with clear intent to support, maintain, organize, or carry out terrorist acts, terrorist activity, travel abroad, or movement through territories to participate in terrorist activity, prepare and commit a terrorist act, as well as maintain a terrorist organization, terrorist, or terrorist activity, or provide services to them in the absence of signs of complicity in terrorism – is punishable by imprisonment from eight to ten years.

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INTERNATIONAL LEGAL REGULATION OF THE RIGHT TO INTERNET ACCESS: A NEW GENERATION OF HUMAN RIGHTS

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Abstract. In this article, it is thoroughly analyzed how the use of the Internet has acquired the status of a fundamental right within the framework of international law and how this process has been successful in some cases. The study examines such important legal frameworks as regional normative documents on human rights, and statements of the Special Rapporteurs, decisions of the UN Human Rights Council as well as the experience of new states. This study reveals important contradictions through theoretical analysis and practical study of Internet disruptions and access barriers. On the one hand, at least at the theoretical level, there is growing international consensus on the issue of digital rights. However, real practice demonstrates an even more alarming picture: government structures continue to impose restrictions largely unpunished, often relying on vague interpretations of national security, which indicates that international law does not have sufficient force to act as an effective barrier. The study shows that although access to the Internet has not achieved the status of an autonomous human right in compulsory contract law, its functional necessity for the exercise of established rights (freedom of expression, freedom of assembly, and freedom of information) has created what can be called *de facto* directly through the back door.

Keywords: internet access, human rights, international law, digital rights, freedom of expression, UN resolutions, internet shutdowns, digital divide

Introduction

Historians are probably shocked by how rapidly the internet has evolved from a novel concept to one that is almost necessary when they reflect on the start of the twenty-first century. It was basically a specialized tool for military researchers

and academics only thirty years ago. Legal frameworks may not have been able to keep up with this rapid change, which gave rise to some genuinely novel problems for international law.

Currently, more than two-thirds of the world's population, or 5.3 billion people,

are using the global network. Although this indicator seems very impressive, it actually hides serious imbalances behind it. The existing difference in access to digital technologies is not limited to the possibility of connecting. The issue also lies in the level of convenience, quality of use, and the authority of government bodies to terminate network communications at their own discretion in politically unfavorable situations. And most people are actually doing so.

The main question arises: should the use of the Internet be recognized as a fundamental human right in the international legal system? This issue is much deeper than the outward appearance. Certain historical processes, such as the abolition of the slave system, the struggle against dictatorial regimes, and the recognition of the unique value of the individual, laid the foundation for the formation of traditional human rights. They emerged gradually, often as a result of painful events and complex political disputes. However, access to the internet has risen from something that didn't exist in just one generation to a vital necessity.

According to some, the rapid development of the internet prevents it from being recognized as a "true" human right. For most of human history, people have lived without a global network. But this argument overlooks an important nuance: technology itself is not the main issue. The important thing is what opportunities are opening up through this technology. Many well-established human rights – freedom of assembly, freedom of expression, the right to information, and even freedom of economic activity – are realized today mainly through the Internet. Governments that restrict access to the Internet not only deprive people of services, but simultaneously suppress a number of basic freedoms.

To put it mildly, the international legal response proved to be complicated. Online protection of offline rights should

be guaranteed by a number of resolutions adopted by the UN Human Rights Council. On paper, they can be heard clearly. However, since the majority of these tools are optional, chaos results. Although they lack enforcement mechanisms, they serve as a representation of global consensus. However, states frequently still impose Internet restrictions based on public order or national security regulations that are generally recognized by international law (OSCE, 2016, July).

These stresses are methodically taken into account in this study. In what ways did international law try to control access to the internet? What are the modern system's shortcomings? And, above all, where do we go from here? Primary sources such as UN resolutions, reports from Special Rapporteurs (especially the renowned 2011 report by Frank La Roye), regional human rights documents, and both favorable and unfavorable new state practices serve as the foundation for the analysis. Because it touches on a number of conflicting interests, this subject is especially intricate and fascinating from an intellectual standpoint. The speed at which technology is developing is astounding. Although some of your worries are more valid than others, you have good reason to be concerned about state security. Important infrastructure is under the control of powerful private companies. Additionally, some people rely more and more on digital communication in their daily lives. To use international legal mechanisms created for a totally different era in order to balance these conflicting interests? The research is attempting to solve this puzzle.

Methods

This study employs what can be referred to as doctrinal legal analysis with empirical additions, which primarily consists of a close reading of legal texts along with actual data regarding how these texts function or fail in real-world situations. Although the primary methodology is based on the examination of international legal

documents, this research consistently asks what is truly taking place on the ground, in contrast to strictly formalistic approaches.

The material under consideration belongs to several different categories, each of which is selected for certain reasons. Firstly, there are mandatory international treaties - the International Covenant on Civil and Political Rights, as well as regional conventions from Europe, Africa, and America. They are important because they create real obligations, although, as we will see, none of them directly mention the internet. They were compiled decades before the World Wide Web. This creates interesting interpretational difficulties (Finland Makes Internet a Basic Right, 2010).

Secondly, non-binding instruments are, first and foremost, the UN Human Rights Council resolutions. Now international lawyers like to argue about whether “soft law” really matters. Skeptics point out that states often support decisions they do not intend to follow. A fair point. However, these resolutions remain important for several reasons: they indicate developing international consensus, provide meaningful recommendations for mandatory documents, and may eventually become customary law. The main resolutions discussed here cover the period from 2012 to 2024, with special emphasis on Resolution 32/L.20 of 2016 (OSCE, 2016, July). This is important because it clearly condemned deliberate internet access violations – and, notably, several major powers opposed this (United Nations, 2016, July).

Thirdly, the reports of the UN Special Rapporteurs, especially on freedom of expression. Frank La Rowe’s 2011 report (A/HRC/17/27) was truly revolutionary – for the first time, an official UN representative officially stated that disconnecting internet access violates international human rights law (United Nations, 2011, June). Subsequent speakers built on this foundation, albeit with varying degrees of courage. These reports do not create a

mandatory right, but they carry significant interpretative power.

Some limitations must now be acknowledged. First of all, technology always advances more quickly than the law. It is inevitable that new problems will surface by the time this study is published. Second, there are differences in how transparent the state is about restrictions. While some governments covertly put pressure on telecom companies and deny everything, others publicly defend disconnections. As a result, there are data gaps that no methodology can completely fill. Thirdly, the emphasis is primarily on the international level, not on the domestic level – monitoring the implementation and compliance with requirements at the national level receives less attention than deserved. But even with these limitations, the basic patterns become sufficiently clear.

Results

The story of how internet access became a human rights problem is essentially a story of legal interpretation and adaptation. None of the major human rights treaties mention the internet – they could not do it as indicated when they were made. The Universal Declaration of Human Rights dates back to 1948. ICCPR until 1966. The Internet, as we know it, did not exist. Nevertheless, these tools were somehow stretched out, quite creatively to encompass digital rights.

Article 19 of the ICCPR provides the basis. It guarantees freedom of opinion and expression “through any mass media” and “regardless of borders” (Banihashemi, 2023). This phrase “any media outlet” has done impressive work over decades. The UN Human Rights Committee in its General Comment No. 34 confirmed that this protection applies to all forms of electronic and online expression (Finland Makes Internet a Basic Right, 210). Not exactly amazing – it would be strange if fundamental rights somehow jumped over the internet. But, nevertheless, the clear confirmation had significance.

However, Frank LaRue's 2011 report went even further. He did not just say that the internet is covered by existing rights. He argued – and this was more controversial – that effectively disconnecting someone's internet access violates Article 19. Regardless of the justification (United Nations, 2011, June). It was bold. The traditional interpretation of Article 19 focused on preventing censorship without requiring states to grant access. La Rowe refuted this: he argued that the internet had become such a central element of freedom of expression that denial of access was itself a form of censorship (Media Defence, n.d.).

The UN Human Rights Council gradually adopted this view. The 20/8 resolution of 2012 was the first to clearly state that online rights are equal to offline rights. A simple principle, profound consequences. If you have offline freedom of expression, you have online freedom of expression. If you have rights to privacy, assembly, and information offline, it's the same online. Resolution 32/L.20 in 2016 went further, particularly condemning measures that "deliberately obstruct or disrupt access to information on the Internet" (OSCE, 2016, July).

But here it becomes politically interesting. The 2016 resolution had over 70 co-sponsors – an impressive number. Nevertheless, several large states opposed this: China, Russia, Saudi Arabia, and others (United Nations, 2016, June). Their objection was not superficial: they argued that the resolution violates the state's sovereignty over communication infrastructure. National security, they said. Public order. Traditional arguments that international law has historically accepted may be too numerous.

By 2021, the Council has instructed to conduct comprehensive research on internet disconnection issues (Resolution 47/16). As a result of the 2022 report, 931 disconnections were documented in 74 countries between 2016 and 2021 (OpenGlobalRights, 2023, July). This

is a surprising number when you think about it. And that's probably not enough – governments that shut down the internet don't always say it openly. About half of these outages occurred during protests or elections. A coincidence? The report diplomatically stated that it might not.

When can governments legally restrict internet access? International law provides the answer, at least theoretically. It is called a three-part test based on Article 19 (3) of the ICCPR. Any restriction must: (1) be provided for by law, (2) pursue a legitimate goal specified in the Covenant, and (3) be necessary and proportional to the achievement of this goal (Right to access the Internet, 2011, May). That sounds reasonable. The devil, as always, lives in the details.

"It's stipulated by law" seems obvious – there must be legal grounds for restrictions. But what is considered an adequate legal basis? In many countries, there are unclear laws on national security or public order that can justify almost everything. A law may exist technically, but if it is so extensive that it provides unlimited freedom of choice, does it truly satisfy this need? The Human Rights Committee says no, such laws are too broad. States often ignore this inconvenient detail.

"Legal goals" include such things as national security, public order, protecting the health or morality of the population, and protecting the rights of others. Sufficiently just – these are real state interests. The problem is how states address them. Freezing during protests? Public order. Blocking social media during elections? National security. What is the throttling capacity in resistive regions? To protect public morality, somehow. Legal goals are real, but they have become comprehensive justifications that are rarely considered with sufficient skepticism.

The "necessary and proportional" requirement should be the true teeth of this test. The Human Rights Committee clearly indicated that restrictions should be

the least intrusive and should be adapted to the specific threat. Common internet disconnections practically never comply with this standard. If you're concerned about specific illegal content, block that content – don't turn off the entire internet for everyone. If you're worried about coordinating violence, focus on specific communications, not excluding all digital connections.

This point is particularly noticeable in the UNHRC report on disconnections in 2022. General disconnections, he concludes, "rarely, if ever" meet the requirements of necessity and proportionality. Think about what it actually means to be completely disabled. This isn't just blocking access to potentially problematic content. This will disable emergency services. Interruption of medical communication. Prevention of enterprise operations. Stopping learning. Isolation of vulnerable population groups. Is all this to eliminate what is usually considered a specific security threat? The analysis of proportionality failed impressively.

Nevertheless, despite all the regulatory developments, their implementation remains weak. States justify closing the case with unclear legal provisions. They claim national security without demonstrating real threats. They refuse to speak openly about who ordered the interruptions and why. And they pressure telecommunications companies to impose restrictions without official orders, creating a reliable negative. The gap between legal norms and real practice is enormous and is constantly growing. Soft legislation can establish norms, but cannot compel them to be enforced. This is the main problem.

Several nations have taken the risk of formally recognizing internet access as a right, despite the fact that international frameworks are still not entirely clear. Their methods diverge greatly, exposing divergent philosophical perspectives on the meaning of such recognition and the responsibilities that go along with it.

In 2010, Finland took the lead by making broadband connections a legal right (Miller, 2021, October). This wasn't merely symbolic; it gave communication operators actual obligations to connect all permanent residential buildings and businesses at a minimum speed of 1 Mbit/s. Finland committed to reaching a nationwide speed of 100 Mbps by 2015. This is true, quantifiable, and doable. This is the appearance of a genuine confession.

Even earlier, in 2000, Estonia backed significant infrastructure investments through the Tiger Leap program, establishing internet access as a human right (European Parliament, 2021, May). Because it connected digital rights to the state's larger development strategy, the Estonian approach is especially intriguing. They constructed infrastructure to give the right significance rather than merely declaring it. Without a way to put them into practice, rights are just nice words.

France took a different route. In 2009, their Constitutional Council decided that internet access is a part of the freedom of expression and communication that is guaranteed by the constitution (European Parliament, 2021, May). Legislation that would automatically block internet access for copyright violations was at issue in this case. The council responded that without a court hearing, it is impossible to deny someone a basic form of self-expression. By restricting the state's power to refuse access rather than mandating that it grant it, it was defending rights through negativity rather than positivity.

Article 5A, which guarantees the right to engage in the information society and requires the state to provide access to electronic information, was added to Greece's 2001 constitution amendments (European Parliament, 2021, May). This is about digital participation in general, not just internet access. It is up for debate whether it strengthens obligations or just sounds more thorough without adding much substance.

International law interprets these domestic occurrences differently. They demonstrate the political viability and possibility of formal recognition. They offer examples of what recognition might actually look like. Additionally, by illustrating state practice, they aid in the formation of customary international law. They also highlight fragmentation, though, as there is no single strategy or consensus on what is truly needed to acknowledge internet access as a right (United Nations, 2023, October).

Perhaps most importantly, official recognition does not guarantee protection. Countries with constitutional or legal protection usually maintain high rates of Internet access and face significant legal barriers to imposing restrictions – which is good. However, even in these countries, the gap between de jure recognition and de facto common use remains significant. Rural areas lag behind cities. Low-income households cannot afford to buy services even if they have infrastructure. Recognition is important, but it is not enough if it is not properly implemented and insufficiently invested.

The 2030 Agenda for Sustainable Development is approaching internet access from a different perspective than human rights frameworks, and the difference is becoming apparent. Instead of asking “is this right?,” he asks “what development goals require digital connectivity?.” It turns out, the answer is most of them.

Target 9.c clearly calls for significantly increasing access to ICT and striving for universal, accessible internet in the least developed countries (Access Now, 2023, January). The language is somewhat hedged – “striving for” rather than “providing,” but the goal acknowledges something important: digital communication has become a fundamental infrastructure comparable to transport, energy, and water. Without it, it is impossible to build the economy of the 21st century.

Connections with other SDGs are extensive and are becoming increasingly evident. Quality education (SDG 4)? Online learning platforms are now necessary, as COVID-19 has proven to be painful. Economic growth and decent work (SDG 8)? Digital commerce and remote work are entirely dependent on the connection. Reducing inequality (SDG 10)? The numerical gap exacerbates every other form of inequality (UNCTAD, 2020). When the pandemic began, those without reliable internet access faced serious difficulties in education, healthcare, employment, and basic social participation (Floridi, 2021).

Nevertheless, progress towards the target date of 2020 (which has obviously already passed) remains inadequate. About 2.7 billion people worldwide still lack access to the internet (OHCHR, 2022, June). This is approximately one-third of humanity. The digital divide is also unevenly distributed – Africa south of the Sahara and parts of South Asia face the largest gaps. This is not just about infrastructure, but also about a systemic deficiency that strengthens existing patterns of global inequality.

Within countries, certain groups face disproportionate barriers. Women, rural populations, people with disabilities, and lower socio-economic groups consistently have lower access rates (OHCHR, 2022, June). This is important because as more and more important services – public services, banking, healthcare, education – go online, those who don’t have access are increasingly being pushed out of civil and economic life. Digital exclusion becomes a social exclusion.

Discussion

Despite the regulatory and legal development, important practical and conceptual problems persist. The most obvious problem is that there is no mandatory international agreement that directly recognizes Internet access as an autonomous human right. Everything is based on the interpretation of existing documents, supplemented by soft

legislative resolutions. This creates uncertainty regarding the specific scope of state obligations and leaves immense freedom of action in national enforcement.

The phenomenon of disconnecting the internet illustrates how weak law enforcement is in reality. Despite international condemnation, documented power outages increased between 2016 and 2021. Governments have also become more sophisticated – complete power outages are becoming increasingly rare, replaced by bandwidth throttling and selective application blocking. They are more difficult to detect and easier to justify as “technical problem” than deliberate limitations. States rarely face significant consequences for violations. UN resolutions expressing concern are good, but they change behavior little, especially in authoritarian contexts (Domaradzki et.al., 2019).

Developing technologies represent problems that current frameworks cannot adequately solve. Take, for example, network neutrality – should internet providers allow discrimination between different types of traffic? International human rights law does not actually state this. Or algorithmic content moderation – when private platforms use AI to filter content, they engage in censorship that should be regulated by freedom of expression principles? It’s unclear. What about the responsibilities of internet providers and technological platforms in general? These are fundamentally private entities, but they control critical infrastructure and make decisions affecting the rights of millions of people (Sander, 2016, November).

There are unique challenges because internet infrastructure is concentrated among a few private companies. Because these businesses operate in multiple jurisdictions, regulatory oversight is challenging. They have conflicting obligations because they are subject to various legal requirements in various

nations. Additionally, they have a great deal of control over access and speech, which states used to have but frequently do not. How should international law handle this? This multilateral setting is not well suited to the current framework created for “state-state” relations and “state-person” rights.

The most basic is probably that technology advances more quickly than the law can keep up. New communication technologies, quantum computing, algorithmic decision-making, and artificial intelligence all bring up issues that haven’t been developed to be solved in the current circles. One attempt to address these new issues is the global digital agreement that the UN Secretary-General has proposed (Floridi, 2021). It’s unclear if this will actually occur. In addition to updating the legislation to reflect modern technology, the task also entails developing adaptable frameworks that can take into account unimaginable future advancements. Yes, this is a complicated issue.

Conclusion

In the context of today’s digital transformation, the right to access the Internet is one of the inalienable human rights. This right is also enshrined in UN resolutions and a number of regional documents. But today, in the context of digital transformation, there are a number of gaps in the protection of human rights.

These important documents include resolutions adopted by the UN Human Rights Council requiring online protection of offline rights. However, there are not enough documents of this recommendatory nature, since we can see aspects of violation of the right to access the Internet around the world in several cases. Due to the absence of mandatory norms in international law, states continue to restrict access to the Internet for the purposes of public order and national security.

There are significant differences between the approaches used in different countries and regions, and successes are noted in some areas. Although proclaiming

progress in many places is more difficult than implementing it in practice, European countries usually stand ahead of other countries in the formal recognition of rights. This situation indicates the complexity of forming common norms for all countries, since each state has its own legal system and level of development.

Of particular importance is the fact that the formal recognition of rights largely depends on the amount of funds spent on infrastructure development, simplified regulatory rules, and the readiness of judicial bodies to prevent the use of excessive force by the state.

Several priority areas have been identified to strengthen defense at the international level. First of all, countries should create a binding international treaty that clearly defines the limits of permissible restrictions and recognizes the use of the Internet as a necessary part of the realization of human rights. This increases efficiency and reduces current uncertainty. Secondly, in order to eliminate the gap in access to digital technologies, developing countries need not only to adopt statements, but also to allocate resources for infrastructure development, facilitation measures, and professional development. Thirdly, emerging technologies require a flexible regulatory framework regarding platform responsibilities, algorithm control, and

personal data protection. Old strategies based on the threats and technological advances of the 20th century are no longer sufficient.

Creating stronger performance mechanisms is probably the most important task of the international team. The gap between theoretical standards and practical public policy can be reduced by not supporting arbitrarily imposed restrictions, improving monitoring systems, and holding violators accountable. Although non-binding rules have led us much further, their weaknesses are becoming increasingly apparent.

Access to the Internet serves as a clear example of how human rights principles are adapting to technological changes. Instead of developing entirely new and complex legal categories, the international community chose the path of logical development of existing systems, taking into account the specifics of digital communication. As technology advances, this flexible but ethical approach becomes increasingly important.

At a time when digitalization processes are accelerating, one of the main goals of international law in the 21st century is to ensure the continued effective protection of human rights in societies that are increasingly transitioning to digital form. Time will tell if we can successfully solve this complex task.

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