

SCIENCE
PROBLEMS.UZ

ISSN 2181-1342

Actual problems of social and humanitarian sciences
Актуальные проблемы социальных и гуманитарных наук

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2024

SCIENCEPROBLEMS.UZ

**ИЖТИМОЙ-ГУМАНИТАР ФАНЛАРНИНГ
ДОЛЗАРБ МУАММОЛАРИ**

№ 7 (4) - 2024

**АКТУАЛЬНЫЕ ПРОБЛЕМЫ СОЦИАЛЬНО-
ГУМАНИТАРНЫХ НАУК**

ACTUAL PROBLEMS OF HUMANITIES AND SOCIAL SCIENCES

ТОШКЕНТ-2024

БОШ МУҲАРРИР:

Исанова Феруза Тулқиновна

ТАҲРИР ҲАЙЪАТИ:

07.00.00-ТАРИХ ФАНЛАРИ:

Юлдашев Анвар Эргашевич – тарих фанлари доктори, сиёсий фанлар номзоди, профессор, Ўзбекистон Республикаси Президенти ҳузуридаги Давлат бошқаруви академияси;

Мавланов Уктам Махмасабирович – тарих фанлари доктори, профессор, Ўзбекистон Республикаси Президенти ҳузуридаги Давлат бошқаруви академияси;

Хазраткулов Абдор – тарих фанлари доктори, доцент, Ўзбекистон давлат жаҳон тиллари университети.

Турсунов Равшан Нормуратович – тарих фанлари доктори, Ўзбекистон Миллий Университети;

Холикулов Ахмаджон Боймаҳамматович – тарих фанлари доктори, Ўзбекистон Миллий Университети;

Габриэльян Софья Ивановна – тарих фанлари доктори, доцент, Ўзбекистон Миллий Университети.

Саидов Сарвар Атабулло ўғли – катта илмий ходим, Имом Термизий халқаро илмий-тадқиқот маркази, илмий тадқиқотлар бўлими.

08.00.00-ИҚТИСОДИЁТ ФАНЛАРИ:

Карлибаева Рая Хожабаевна – иқтисодиёт фанлари доктори, профессор, Тошкент давлат иқтисодиёт университети;

Насирходжаева Дилафруз Сабитхановна – иқтисодиёт фанлари доктори, профессор, Тошкент давлат иқтисодиёт университети;

Остонокулов Азамат Абдукаримович – иқтисодиёт фанлари доктори, профессор, Тошкент молия институти;

Арабов Нурали Уралович – иқтисодиёт фанлари доктори, профессор, Самарқанд давлат университети;

Худойқулов Садирдин Каримович – иқтисодиёт фанлари доктори, доцент, Тошкент давлат иқтисодиёт университети;

Азизов Шерзод Ўктамович – иқтисодиёт фанлари доктори, доцент, Ўзбекистон Республикаси Божхона институти;

Хожаев Азизхон Саидалохонович – иқтисодиёт фанлари доктори, доцент, Фарғона политехника институти

Холов Актам Хатамович – иқтисодиёт фанлари бўйича фалсафа доктори (PhD), доцент, Ўзбекистон Республикаси Президенти ҳузуридаги Давлат бошқаруви академияси;

Шадиева Дилдора Хамидовна – иқтисодиёт фанлари бўйича фалсафа доктори (PhD), доцент в.б, Тошкент молия институти;

Шакарров Қулмат Аширович – иқтисодиёт фанлари номзоди, доцент, Тошкент ахборот технологиялари университети

09.00.00-ФАЛСАФА ФАНЛАРИ:

Ҳакимов Назар Ҳакимович – фалсафа фанлари доктори, профессор, Тошкент давлат иқтисодиёт университети;

Яхшиликков Жўрабой – фалсафа фанлари доктори, профессор, Самарқанд давлат университети;

Ғайбуллаев Отабек Мухаммадиевич – фалсафа фанлари доктори, профессор, Самарқанд давлат чет тиллар институти;

Саидова Камола Усканбаевна – фалсафа фанлари доктори, “Tashkent International University of Education” халқаро университети;

Ҳошимхонов Мўмин – фалсафа фанлари доктори, доцент, Жиззах педагогика институти;

Ўроқова Ойсулов Жамолiddиновна – фалсафа фанлари доктори, доцент, Андижон давлат тиббиёт институти, Ижтимоий-гуманитар фанлар кафедраси мудири;

Носирходжаева Гулнора Абдукаҳхаровна – фалсафа фанлари номзоди, доцент, Тошкент давлат юридик университети;

Турдиев Бехруз Собирович – фалсафа фанлари бўйича фалсафа доктори (PhD), доцент, Бухоро давлат университети.

10.00.00-ФИЛОЛОГИЯ ФАНЛАРИ:

Ахмедов Ойбек Сапорбаевич – филология фанлари доктори, профессор, Ўзбекистон давлат жаҳон тиллари университети;

Кўчимов Шухрат Норқизиллович – филология фанлари доктори, доцент, Тошкент давлат юридик университети;

Ҳасанов Шавкат Аҳадович – филология фанлари доктори, профессор, Самарқанд давлат университети;

Бахронова Дилрабо Келдиёровна – филология фанлари доктори, профессор, Ўзбекистон давлат жаҳон тиллари университети;

Мирсанов Ғайбулло Қулмуродович – филология фанлари доктори, профессор, Самарқанд давлат чет тиллар институти;

Салахутдинова Мушарраф Исамутдиновна – филология фанлари номзоди, доцент, Самарқанд давлат университети;

Кучкаров Раҳман Урманович – филология фанлари номзоди, доцент в/б, Тошкент давлат юридик университети;

Юнусов Мансур Абдуллаевич – филология фанлари номзоди, Ўзбекистон Республикаси Президенти ҳузуридаги Давлат бошқаруви академияси;

Саидов Улугбек Арипович – филология фанлари номзоди, доцент, Ўзбекистон Республикаси Президенти ҳузуридаги Давлат бошқаруви академияси.

12.00.00-ЮРИДИК ФАНЛАР:

Аҳмедшаева Мавлюда Ахатовна – юридик фанлар доктори, профессор, Тошкент давлат юридик университети;

Мухитдинова Фирюза Абдурашидовна – юридик фанлар доктори, профессор, Тошкент давлат юридик университети;

Эсанова Замира Нормуратовна – юридик фанлар доктори, профессор, Ўзбекистон Республикасида хизмат кўрсатган юрист, Тошкент давлат юридик университети;

Ҳамроқулов Баҳодир Мамашарифович – юридик фанлар доктори, профессор в.б., Жаҳон иқтисодиёти ва дипломатия университети;

Зулфиқоров Шерзод Хуррамович – юридик фанлар доктори, профессор, Ўзбекистон Республикаси Жамоат хавфсизлиги университети;

Хайитов Хушвақт Сапарбаевич – юридик фанлар доктори, профессор, Ўзбекистон Республикаси Президенти ҳузуридаги Давлат бошқаруви академияси;

Асадов Шавкат Ғайбуллаевич – юридик фанлар доктори, доцент, Ўзбекистон Республикаси Президенти ҳузуридаги Давлат бошқаруви академияси;

Утемуратов Махмут Ажимуратович – юридик фанлар номзоди, профессор, Тошкент давлат юридик университети;

Сайдуллаев Шахзод Алиханович – юридик фанлар номзоди, профессор, Тошкент давлат юридик университети;

Ҳакимов Комил Бахтиярович – юридик фанлар доктори, доцент, Тошкент давлат юридик университети;

Юсупов Сардорбек Баходирович – юридик фанлар доктори, доцент, Тошкент давлат юридик университети;

Амиров Зафар Актамович – юридик фанлар бўйича фалсафа доктори (PhD), Ўзбекистон Республикаси Судьялар олий кенгаши ҳузуридаги Судьялар олий мактаби;

Жўраев Шерзод Юлдашевич – юридик фанлар номзоди, доцент, Тошкент давлат юридик университети;

Бабаджанов Атабек Давронбекович – юридик фанлар номзоди, доцент, Тошкент давлат юридик университети;

Раҳматов Элёр Жумабоевич – юридик фанлар номзоди, Тошкент давлат юридик университети;

13.00.00-ПЕДАГОГИКА ФАНЛАРИ:

Хашимова Дильдархон Уринбоевна – педагогика фанлари доктори, профессор, Тошкент давлат юридик университети;

Ибрагимова Гулнора Хавазматовна – педагогика фанлари доктори, профессор, Тошкент давлат иқтисодиёт университети;

Закирова Феруза Махмудовна – педагогика фанлари доктори, Тошкент ахборот технологиялари университети ҳузуридаги педагогик кадрларни қайта тайёрлаш ва уларнинг малакасини ошириш тармоқ маркази;

Каюмова Насиба Ашуровна – педагогика фанлари доктори, профессор, Қарши давлат университети;

Тайланова Шохида Зайниевна – педагогика фанлари доктори, доцент;

Жуманиёзова Муҳайё Тожиевна – педагогика фанлари доктори, доцент, Ўзбекистон давлат жаҳон тиллари университети;

Ибрахимов Санжар Урунбаевич – педагогика фанлари доктори, Иқтисодиёт ва педагогика университети;

Жавлиева Шахноза Баходировна – педагогика фанлари бўйича фалсафа доктори (PhD), Самарқанд давлат университети;

Бобомуротова Латофат Элмуродовна – педагогика фанлари бўйича фалсафа доктори (PhD), Самарқанд давлат университети.

19.00.00-ПСИХОЛОГИЯ ФАНЛАРИ:

Каримова Василя Маманосировна – психология фанлари доктори, профессор, Низомий номидаги Тошкент давлат педагогика университети;

Ҳайитов Ойбек Эшбоевич – Жисмоний тарбия ва спорт бўйича мутахассисларни қайта тайёрлаш ва малакасини ошириш институти, психология фанлари доктори, профессор

Умарова Навбахор Шокировна – психология фанлари доктори, доцент, Низомий номидаги Тошкент давлат педагогика университети, Амалий психологияси кафедраси мудири;

Атабаева Наргис Батировна – психология фанлари доктори, доцент, Низомий номидаги Тошкент давлат педагогика университети;

Шамшетова Анжим Карамаддиновна – психология фанлари доктори, доцент,

Ўзбекистон давлат жаҳон тиллари университети;

Қодиров Обид Сафарович – психология фанлари доктори (PhD), Самарканд вилоят ИИБ Тиббиёт бўлими психологик хизмат бошлиғи.

22.00.00-СОЦИОЛОГИЯ ФАНЛАРИ:

Латипова Нодира Мухтаржановна – социология фанлари доктори, профессор, Ўзбекистон миллий университети кафедра мудири;

Сеитов Азамат Пўлатович – социология фанлари доктори, профессор, Ўзбекистон миллий университети;

Содиқова Шоҳида Мархабобовна – социология фанлари доктори, профессор, Ўзбекистон халқаро ислом академияси.

23.00.00-СИЁСИЙ ФАНЛАР

Назаров Насриддин Атақулович – сиёсий фанлар доктори, фалсафа фанлари доктори, профессор, Тошкент архитектура қурилиш институти;

Бўтаев Усмонжон Хайруллаевич – сиёсий фанлар доктори, доцент, Ўзбекистон миллий университети кафедра мудири.

ОАК Рўйхати

Мазкур журнал Вазирлар Маҳкамаси ҳузуридаги Олий аттестация комиссияси Раёсатининг 2022 йил 30 ноябрдаги 327/5-сон қарори билан тарих, иқтисодиёт, фалсафа, филология, юридик ва педагогика фанлари бўйича илмий даражалар бўйича диссертациялар асосий натижаларини чоп этиш тавсия этилган илмий нашрлар рўйхатига киритилган.

Ижтимоий-гуманитар фанларнинг долзарб муаммолари” электрон журнали 2020 йил 6 август куни 1368-сонли гувоҳнома билан давлат рўйхатига олинган.

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Таҳририят манзили:

100070. Тошкент шаҳри, Яккасарой тумани, Кичик Бешёғоч кўчаси, 70/10-уй. Электрон манзил:

scienceproblems.uz@gmail.com

Боғланиш учун телефонлар:

(99) 602-09-84 (telegram).

MUNDARIJA

07.00.00 – TARIX FANLARI

Abduxamidov Islombek

O'ZBEKISTON AHOLISINING ROSSIYA FEDERATSIYASIDA MEHNAT MUHOJIRLIGI TARIXI	10-18
--	-------

Фарманова Гульнара Комилевна

ПОДНЯТИЕ МЕТОДИКИ АРХЕОЛОГИЧЕСКИХ ИССЛЕДОВАНИЙ НА ОБЩЕМИРОВОЙ УРОВЕНЬ В СОВРЕМЕННЫХ УСЛОВИЯХ	19-24
---	-------

Индиаминова Шоира Амриддиновна

РАЗВИТИЕ КУЛЬТУРЫ И ИСКУССТВА В САМАРКАНДСКОМ СОГДЕ В ЭПОХУ РАННЕГО СРЕДНЕВЕКОВЬЯ	25-29
--	-------

Mirzakhmdamova Dildora Zafarovna

XOTIN-QIZLAR BANDLIGINI TA'MINLASHDA FARG'ONA VILOYATIDA IPAKCHILK ORQALI KASANACHILIK VA UY MEHNATINI RIVOJLANTIRISH	30-35
--	-------

Ismoilova Parvina

TURKISTON MINTAQASIDAGI INSTITUTSIONAL O'ZGARISHLAR: ROSSIYA KAPITALI UCHUN KANALLARNING SHAKLLANISHI (19-ASR OXIRI - 20-ASR BOSHLARI)	36-41
---	-------

Jomurodov Lazizbek Islomovich

O'ZBEKISTONDA TERI-TANOSIL KASALLIKLARIGA QARSHI KURASH JARAYONI	42-46
---	-------

08.00.00 – IQTISODIYOT FANLARI

Назарова Раъно Рустамовна, Нигматуллаева Гульчехра Нуруллаевна

ОСНОВНЫЕ ФАКТОРЫ, КРИТЕРИИ И ПОКАЗАТЕЛИ, ОБЕСПЕЧИВАЮЩИЕ УСТОЙЧИВОЕ РАЗВИТИЕ В СФЕРЕ ЭНЕРГЕТИЧЕСКОЙ ОТРАСЛИ	47-54
---	-------

Yegamberdiyeva Xurshidaxon Alisherovna

VAGONLARDAN FOYDALANISHNING SIFAT KO'RSATKICHINI OSHIRISHNI TADQIQ QILISH	55-61
--	-------

Mamadaliyev Ulug'bek

JAHON TURIZMIDA TUROPERATORLIK FAOLIYATINING RIVOJLANISH HOLATI	62-69
---	-------

Jalilov Arslon Xoshimovich

TEMIR YO'L TRANSPORTINING INNOVASION MUHITDAGI RAQOBATDOSHLIK DARAJASINI BAHOLASH	70-75
--	-------

Kamchibekov Farxod Olimjonovich

O'ZBEKISTON HUDUDLARINING INVESTITSION JOZIBADORLIGINI OSHIRISHDA MAXSUS IQTISODIY HUDUDLAR VA KICHIK SANOAT ZONALARINING ROLI	76-82
---	-------

09.00.00 – FALSAFA FANLARI

Djurayev Lukmon Narzullaevich

ZAMONAVIY O'ZBEKISTON JAMIYATIDA YOSHLAR IQTISODIY MADANIYATINING TRANSFORMATSIYALASHUVI	83-87
---	-------

Norkulov Ubaydulla Umarovich

MAHALLADA JINOYATLARNI ERTA ANIQLASHDA JAMOATCHILIK NAZORATINI

KUCHAYTIRISHNING IJTIMOYIY-FALSAFIY MEKANIZMLARI 88-92

Пулатов Шердор Нематёнович

ДОКТРИНА ЛЮБВИ АЛИШЕРА НАБАИ И МАХАТМЫ ГАНДИ 93-105

Yusupov Murodali Sunnatovich

O'ZBEKISTON QISHLOQ XO'JALIGIDA INNOVATSION TIZIMLARNI QO'LLASHNING IJTIMOYIY-

FALSAFIY MASALALARI 106-110

Suleymanov Sarvar Sunatullayevich

O'ZBEKISTONNING YANGI DAVRGA XOS BO'LGAN MA'NAVIY TEXNOLOGIYALARNING

IJTIMOYIY-FALSAFIY ASOSLARI 111-116

Shernazarov Ravshan Avazovich

SIYOSIY E'TIQOD: UNING TIZIMI VA FUNKSIYASINING FALSAFIY TAHLILI 117-122

Nasrullayev Ravshanxon Sirojxonovich

VATANPARVARLIKNI IJTIMOYIY- MADANIY HODISA SIFATIDA AHAMIYATI 123-126

10.00.00 – FILOLOGIYA FANLARI

Matkarimova Salomat Ko'ziyevna

ALISHER NAVOIY VA HAYDAR XORAZMIY: MUSHTARAKLIK VA O'ZIGA XOSLIK 127-133

Tairova Maxfuza Abdusattorovna

INGLIZ VA O'ZBEK TILLARIDAGI MAMLUKATSHUNOSLIKKA DOIR RAMZIY VOSITALARNING

TARJIMADA QAYTA IFODALANISHI 134-139

Rahimova Maftuna

LISONIY BELGI VA ASSOTSIATSIYA 140-143

Umaraliyeva Dildora Taxirjanovna

O'ZBEK LATIFALARI, ULARNING TASNIFI VA TO'PLASH BORASIDA OLIB BORILGAN

TADQIQOTLAR 144-147

Xursanov Nurislom Iskandarovich

O'ZBEK FRAZELOGIK BIRLIKLARINING PRAGMATIK TAHLILI 148-154

Umarov Umidjon Akram o'g'li

RAMZ AXRETIPLARINING TASNIFLANISHI VA BADIY TAHLILI 155-159

Облокулова Шахло Асрор қизи

ЗАМОНАВИЙ ЖАҲОН АДАБИЁТИДА ТАОМ ДИСКУРСИ 160-164

Nazarova Lola Maqsadilla qizi

KORPUS LINGVISTIKASI: BNC KORPUSINING FUNKSIONAL XUSUSIYATLARI 165-170

Umarxonova Dilafruz Murotjonovna

"MARDLIK" VA "QO'RQOQLIK" KONSEPTLARINING AKSIOLINGVISTIK TAHLILI 171-175

Yunusova Ganjina Rustamovna

NAZMDA YO'L XRONOTOPINING BADIY-ESTETIK XUSUSIYATLARI 176-180

Мусаев Файзулло Оманович

АРАБ ДУНЁСИДА "МАСАЛ" ИЛМИНИНГ ВУЖУДГА КЕЛИШИ ВА РИВОЖИ 181-186

<i>Ubaydullayeva Dilafruz Fazliddinova</i> INGLIZ VA O'ZBEK TILIDAGI "ANGER" VA "G'AZAB " ATAMALARINING ETIMOLOGIK VA LEKSIKOGRAFIK TAHLILI	187-192
<i>Narmuratov Zayniddin Radjabovich</i> FRAZEOLOGIK BIRLIKLAR KOMPONENTLARI TAHLILI VA ULARNING STRUKTURAVIY MODELLARI	193-196
<i>Masharipova Nargiza Otaxonovna</i> TARIXIY-BADIIY ASARLAR TARJIMASIDA DINIY VA TARIXIY SO'ZLAR TARJIMASI MUAMMOSI	197-201
<i>Икромов Нугина Ойбековна</i> ПСИХОЛИНГВИСТИЧЕСКИЕ ТРУДНОСТИ ПЕРЕВОДА ЗАГЛАВИЯ ЛИТЕРАТУРНОГО ПРОИЗВЕДЕНИЯ	202-207
<i>Najmiddinova Mehriqul Najmiddin qizi</i> NEGATIVLIKNI IFODALOVCHI TEXNIKAGA OID TERMINLARNING QIYOSIY TADQIQI (INGLIZ VA O'ZBEK TILLARI MISOLIDA)	208-213
<i>Eshniyazova Maysara Beknazarovna</i> "NAZMUL JAVOHIR" ASARIDA G'OYAVIY BADIIY POETIKA	214-221
12.00.00 – YURIDIK FANLAR	
<i>Саидов Акроб Акмалович</i> ЯНГИ ЎЗБЕКИСТОН ЖАЗОНИ ИЖРО ЭТИШ СИЁСАТИ ҲАМДА УНИНГ НАЗАРИЙ АСОСЛАРИ	222-230
<i>Raimova Nargiza Doroyevna</i> TIJORAT MAXFIY MA'LUMOTLARINI HIMOYA QILISH: INTELLEKTUAL MULK HUQUQI SOHASIDAGI QONUNCHILIKNI TAKOMILLASHTIRISH ISTIQBOLLARI	231-237
<i>Умурзаков Жасурбек Қосимжанович</i> КРИПТО-АКТИВЛАР НОҚОНУНИЙ АЙЛАНМАСИ БИЛАН БОҒЛИҚ ҲУҚУҚБУЗАРЛИКЛАР УЧУН ЖАВОБГАРЛИКНИ ТАКОМИЛЛАШТИРИШ	238-242
<i>Nurmamatova Noila Doniyorovna</i> KONSTITUTSIYAVIY SUDLOV ORGANI TOMONIDAN FUQAROLAR VA YURIDIK SHAXSLARNING SHIKOYATINI KO'RIB CHIQISHNING O'ZIGA XOS XUSUSIYATLARI	243-248
<i>Muxammadjonov Jasurbek Jaxongir o'g'li</i> FUQAROLARNING TADBIRKORLIK BILAN SHUG'ULLANISH HUQUQINING XALQARO VA MINTAQAVIY HUQUQIY KAFOLATLARI	249-260
<i>Адилбаев Бекбосын Абатбаевич</i> ФУҚАРОЛИК-ҲУҚУҚИЙ ВАКИЛЛИК ТУШУНЧАСИ, МОҲИЯТИ ВА ЎЗИГА ХОС ХУСУСИЯТЛАРИ	261-267
<i>Турсунбоев Сардор Муроджон ўғли</i> ПРОКУРАТУРА ОРГАНЛАРИ ТИЗИМИДА ТЕРГОВ ТУЗИЛМАЛАРИНИНГ ФАОЛИЯТИНИ ТАШКИЛИЙ-ҲУҚУҚИЙ АСОСЛАРИНИ ТАКОМИЛЛАШТИРИШ	268-275
<i>Mukumov Bobur</i> O'ZBEKISTON RESPUBLIKASI VA GERMANIYA FEDERATIV RESPUBLIKASIDA TOVAR BELGILARINI HUQUQIY MUHOFAZA QILISH MASALALARI	276-282
<i>Nabiev Firuz Xamidovich</i> INTELLEKTUAL MULK SOHASIDAGI XALQARO HUQUQIY NORMLARNI O'ZBEKISTON	

RESPUBLIKASI QONUNCHILIGIGA IMPLEMENTATSIYA QILISHDA “MOSLASHUVCHANLIK” KONTSEPTSIYASINING O'RNI	283-289
---	---------

Калимбетов Ерназар

ГРАЖДАНСКИЕ ПРАВА В СФЕРЕ ПРЕДПРИНИМАТЕЛЬСТВА: ПОНЯТИЕ, ВИДЫ И СОДЕРЖАНИЕ В КОНТЕКСТЕ АДМИНИСТРАТИВНО-ПРАВОВОЙ ЗАЩИТЫ	290-297
--	---------

Ibrohimov Azimjon Abdumot'min o'g'li

KORPORATSIYANI AMALDA BOSHQARUVCHI SHAXSLAR JAVOBGARLIGI	298-306
--	---------

Ходжаева Ширин

ТЕОРЕТИКО-ПРАВОВОЙ АНАЛИЗ РИСКОВ, СВЯЗАННЫХ С ПРЕДДОГОВОРНЫМИ ОТНОШЕНИЯМИ	307-317
--	---------

Маматкулов Камолiddин Галабаевич

ТАҚИҚЛАНГАН ЭКИНЛАРНИ ЕТИШТИРИШ БИЛАН БОҒЛИҚ ЖИНОЯТЛАРНИ ТЕРГОВ ҚИЛИШДА ИСБОТЛАНУВЧИ ҲОЛАТЛАР ВА УЛАРНИНГ АҲАМИЯТИ	318-323
---	---------

13.00.00 – PEDAGOGIKA FANLARI

Nazarova Ra'no Sidiq qizi

HUQUQBUZARLIKKA MOYIL BO'LGAN BOLALARDA O'Z-O'ZINI NAZORAT QILISH KO'NIKMASINI SHAKLLANTIRISHNING NAZARIY ASOSLARI	324-329
---	---------

Fayzullayeva Gulchexra Sharipboyevna

UMUMIY O'RTA TA'LIM MAKTAB O'QITUVCHISI KASB STANDARTINING MAZMUN TAHLILI	330-341
--	---------

Hamidova Laylo Kamildjonovna

OLIY PEDAGOGIK TA'LIMDA ARALASH O'QITISH MODELLARIDAN FOYDALANISHNING AFZALLIKLARI	342-346
---	---------

Ajiniyazova Sholpan Saparniyazovna, Uteniyazov Karimbay Kuanishbaevich

MAKTABDA KIMYOVIY MASALALARNI ECHISH BO'YICHA MASHG'ULOTLARNI TASHKIL ETISH SHAKILLARI	347-357
---	---------

Rasulova Dilafruxxon Sharobiddin qizi

GLOBAL PEDAGOGIK SAVODXONLIKNI RIVOJLANTIRISHDA TALABALAR KOMPETENSIYASIGA METODIK YONDASHUVLAR	358-363
--	---------

Kenjaboyev Sharifjon Shuxrat o'g'li

INDIVIDUAL-KABIY RIVOJLANISH – PEDAGOGIK KASBI TARBIYASINING AJRALMAS QISMI SIFATIDA	364-369
---	---------

Jalilov Umidjon Jahongirovich

OG'IR ATLETIKA MASHQLARINING AMALGA OSHIRISH USLUBIYATI	370-375
---	---------

Najmiddinova Gulnora Najmiddin qizi

OLIY TA'LIM TIZIMIDA SUN'IY INTELLEKT TIZIMINI TAKOMILLASHTIRISH MEXANIZMLARI	376-381
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Received: 30 June 2024

Accepted: 5 July 2024

Published: 15 July 2024

Article / Original Paper

THE ROLE OF THE CONCEPT OF "FLEXIBILITIES" IN THE IMPLEMENTATION OF INTERNATIONAL LEGAL NORMS IN THE FIELD OF INTELLECTUAL PROPERTY INTO THE LEGISLATION OF THE REPUBLIC OF UZBEKISTAN

Nabiyev Firuz Khamidovich

Independent researcher of The University of World Economy and Diplomacy

Abstract. This article examines the concept of "flexibilities" in the context of implementing international legal norms in the field of intellectual property within the legislation of the Republic of Uzbekistan. It analyzes how the flexibility principles embedded in international agreements, such as the TRIPS Agreement (Trade-Related Aspects of Intellectual Property Rights), influence the adaptation and incorporation of these norms at the national level. Special attention is given to the legal mechanisms and strategic approaches that allow Uzbekistan to balance the protection of intellectual property rights with the achievement of socio-economic development goals. The article explores specific legislative initiatives and reforms aimed at optimizing the national legal system in line with international standards, and discusses the challenges and prospects for further development in this area.

Keywords: the concept of "flexibilities", intellectual property, international law, implementation, legislation, norms, implementation, protection, enforcement, legal framework, legal measures, legal practice

INTELLEKTUAL MULK SOHASIDAGI XALQARO HUQUQIY NORMLARNI O'ZBEKISTON RESPUBLIKASI QONUNCHILIGIGA IMPLEMENTATSIYA QILISHDA "MOSLASHUVCHANLIK" KONTSEPTSIYASINING O'RNI

Nabiev Firuz Xamidovich

Jahon iqtisodiyoti va diplomatiya universitetining mustaqil izlanuvchisi

Annotatsiya. Ushbu maqolada "moslashuvchanlik" konsepsiyasi tushunchasi O'zbekiston Respublikasi qonunchiligiga intellektual mulk sohasidagi xalqaro huquq normalarini implementatsiya qilish kontekstida ko'rib chiqiladi. TRIPS (Intellektual mulk huquqlarining savdo-sotiq aspektlari) bitimi kabi xalqaro shartnomalarga kiritilgan moslashuvchanlik tamoyillari ushbu qoidalarni milliy darajada moslashtirish va amalga oshirishga qanday ta'sir qilishini tahlil qilinadi. O'zbekistonda intellektual mulk huquqlarini himoya qilish va ijtimoiy-iqtisodiy rivojlanish maqsadlariga erishish o'rtasidagi muvozanatni saqlash imkonini beruvchi huquqiy mexanizmlar va strategik yondashuvlarga alohida e'tibor qaratilgan. Maqolada milliy huquq tizimini xalqaro standartlarga muvofiq optimallashtirishga qaratilgan aniq qonunchilik tashabbuslari va islohotlar namunalari ko'rib chiqiladi, shuningdek, yuzaga kelayotgan muammolar va uni yanada rivojlantirish istiqbollari muhokama qilinadi.

Kalit so'zlar: "moslashuvchanlik" tushunchasi, intellektual mulk, xalqaro huquq, implementatsiya qilish, qonunchilik, normalar, himoya qilish, huquqni qo'llash, huquqiy rejim, huquqiy choralar, huquqiy amaliyot

DOI: <https://doi.org/10.47390/SPR1342V4I7Y2024N44>

The implementation of the Paris Convention is based on the application by Member States of the principle of national treatment, which is enshrined in Article 2(1) of the

Convention, which reads as follows: "In respect of the protection of industrial property, the nationals of each country of the Union shall enjoy in all other countries of the Union the same advantages as are now accorded or shall hereafter be accorded by the respective laws to their own nationals, without prejudice to the rights specifically provided for in this Convention..." [1].

Under the Paris Convention, the principle of national treatment allowed for "asymmetry", i.e. the adoption of different standards of protection by different countries in accordance with the level of national development, while still respecting the conditions of national treatment.

The TRIPS Agreement established minimum standards of protection that each government must grant to the intellectual property of other WTO members, thereby limiting the previous scope for national approaches.

However, the TRIPS Agreement includes certain "flexibilities". These are intended to allow developing and least developed countries to use TRIPS-compatible rules in a way that allows them to pursue their own public intellectual property policies in certain areas, such as pharmaceuticals, biotechnology, biodiversity protection and so on.

It is important to note that this topic and the issues implementation of international legal norms in the field of intellectual property into the legislation of The Republic of Uzbekistan have not been widely studied among domestic authors. Existing scientific works are mostly of a civil legal nature or highlight the general features of criminal liability for violations of copyright or invention rights. Among domestic authors we can highlight O.O. Okyulov, B.N. Toshev, I.I. Nasriev, A. Azimov, Z.S. Akramkhodzhaev, N.F. Imomov and others.

In particular, B.N. Toshev studied the issues of implementation of international law in the field of regulation of copyright and related rights into national legislation [2].

O.O. Okyulov examined the historical aspects of the development of intellectual property law in the Republic of Uzbekistan and explored issues of the legal nature of intellectual property, their role in civil law [3].

Z. S. Ubaydullaev analyzed international regulations in the field of intellectual property and studied the issues of commercialization of intellectual property through technology transfer [4].

There is no single definition of "flexibilities" in the TRIPS Agreement. According to a WIPO document: "The term 'flexibilities' means that there are 'various options through which TRIPS obligations can be transposed into national law in a manner that takes into account national interests while still respecting the provisions and principles of TRIPS'." This definition delineates the scope of the concept quite clearly through the following elements: (i) it reflects the idea of a plurality of implementation options; (ii) it points to the legislative process of implementation, whereby the first step in taking advantage of a particular flexibility is its incorporation into national law; (iii) it explains the purpose of flexibilities, which is to safeguard the national interest; and (iv) it indicates that the flexibility must be consistent with the national interest; and (v) it indicates that the flexibility must be in accordance with the provisions of TRIPS [5].

The term "flexibilities" is used in the Preamble (sixth paragraph) and in Article 661 of the TRIPS Agreement, and in essence means that developing and least developed countries do not have to comply with the obligations set out in the TRIPS Agreement (with the exception of Articles 3-5) during the transition period. That is, more generally, the concept of TRIPS

flexibilities gives countries the legal ability to use TRIPS rules independently in setting macroeconomic and institutional conditions that support their economic development. Any WTO member can use TRIPS flexibilities, if applicable, to achieve public health or other public objectives.

The issues of the concept of TRIPS Agreement flexibilities have been comprehensively addressed in the scholarly work of P. Sichunya, who summarised as follows: "In the TRIPS Agreement regime, the concept of 'flexibilities' manifests itself as a way of achieving the objectives of the agreement (TRIPS Agreement) without fully resolving complex legal issues"[6, 46].

K. Deere characterises "flexibilities" as a pretext to legitimise a waiver of explicit obligations under the TRIPS Agreement. On the other hand, flexibilities are often seen as the solution to all intellectual property problems"[7, 68].

Article 6 of the TRIPS Agreement offers WTO Members "flexibility" in defining an exhaustion regime for intellectual property rights, which is an important legal tool for developing countries. In the case of parallel imports, members are allowed to import products protected by intellectual property, such as patented medicines from a market with lower prices than the domestic market. In addition, the Doha Declaration stipulates that "WTO Members have the right to "freely establish their own regime for such exhaustion of rights, subject to the provisions on most-favoured-nation treatment and national treatment (Article 3 and Article 4 of the TRIPS Agreement)" [8]. Countries therefore prefer to establish regimes that best facilitate the realisation of their national priorities.

There are three typical types of exhaustion regime for an IP product or work:

- (1) national regime: the protected product has been placed on the domestic market with the consent of the IP owner or independently in the country where the right is granted;
- (2) regional regime: the extension of the national regime to countries in a given region;
- (3) international regime: in this case, the IP owner's right is exhausted worldwide when the protected products enter a market.

In addition, some countries apply different regimes for different types of intellectual property. For example, they may apply the international regime for patents and trademarks, and the national regime for copyright exhaustion.

According to S.F. Misungu and O. Cecilia: "Flexibilities can be divided into two main categories: transitional flexibilities under the TRIPS Agreement and substantive flexibilities"[9, 37].

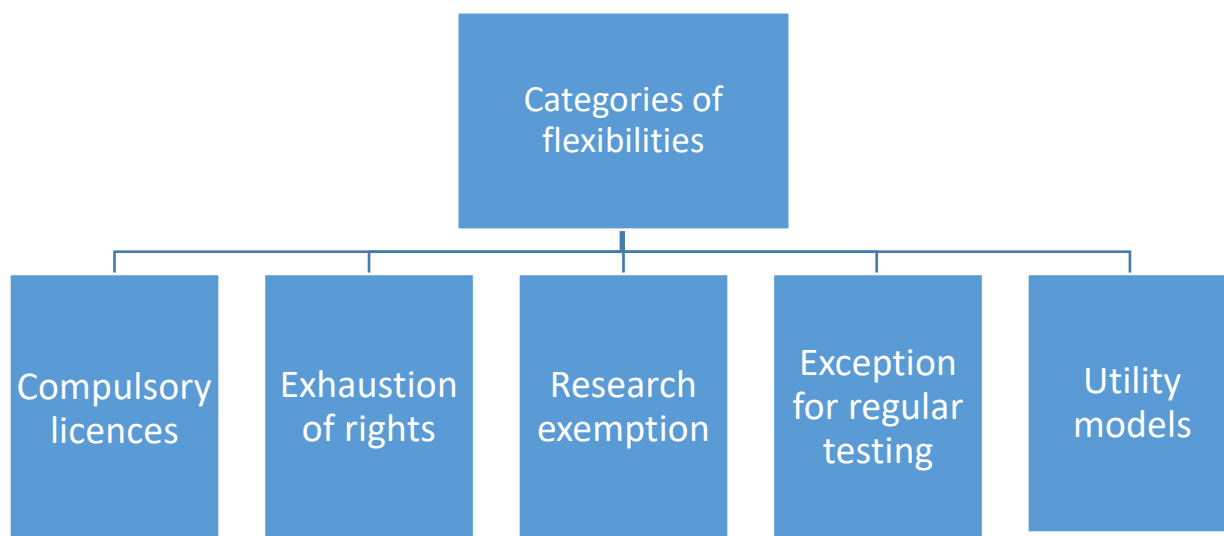
A more detailed categorisation made by Ng.W. Moon, which presents the following:

- "1. objects subject to protection;
2. the scope of protection (These flexibilities include the possibility of using patented inventions for experimental purposes or for the preparation of data required for marketing authorisation);
3. modes of IP protection (This means that Member States are entitled to take the necessary measures to prevent unfair and anti-competitive practices (including preventive control of such practices in the form of granting licence agreements);
4. administrative matters"[10, 132].

The above illustrates the wide range of options for Member States to apply their own rules to fulfil their obligations under the TRIPS Agreement, on the one hand, and national

interests, on the other. In this regard, we agree with the opinion of C.E. Maskus who states that "Striking an optimal balance in each area is one of the prerequisites for ensuring that the IP system, and especially the patent system, contributes to the economic development of countries"[11, 176].

We believe that the following categories of flexibilities can be identified:



Patent law, like other intellectual property rights, is territorial in nature, namely that each patent grants its owner the exclusive right to use the invention within the country or countries in which the patent was granted. Thus, an invention may be subject to patent protection in more than one country, giving rise to independent rights (Article 4bis of the Paris Convention). These rights are listed in Article 28 of the TRIPS Agreement (granted rights). This includes, among others, the "right to import", as importing a patented product from another country may infringe the exclusive right derived from the patent.

Article 27 of the TRIPS Agreement provides for "flexibilities" regarding patentability of subject matter and grants Members the right to exclude from patentability inventions whose commercial exploitation must be prevented within their territories for the protection of public order or morals, including the protection of life or health.

According to C. Correa, "The importance of the concept of 'flexibilities' is reflected in the right of WTO Members to define the patentability criteria specified in the TRIPS Agreement in accordance with their specific national priorities. This can be an important tool for promoting genuinely new and inventive products"[12, 138].

Moreover, with regard to prior art, most countries exclude the patentability of any public disclosure that has been written, spoken or used anywhere in the world. Therefore, it is suggested that developing countries should set high standards of inventive step to reduce the number of patentable inventions, as a result "preventing the patenting of routine discoveries" and creating a more competitive, cheaper environment for the creation of national intellectual property.

In addition, the TRIPS Agreement allows members to exclude the patentability of inventions if preventing their commercial exploitation is necessary to protect "public order and morals." The TRIPS Agreement presents countries with the right to incorporate the term "public order and morals" into their laws.

It is important to note that the term "public order and morals" in a different interpretation is reflected in the national legislation of the Republic of Uzbekistan. In particular, the Law of the Republic of Uzbekistan No. 397-II of 29.08.2002 "On Inventions, Utility Models and Industrial Designs" does not recognise solutions contrary to the public interest, principles of humanity and morality as inventions and industrial designs.

The TRIPS Agreement includes provisions regarding the "flexibility" to use a patent without the right holder's consent to grant a compulsory licence in case of public, non-commercial use or a national emergency; or as a remedy against anti-competitive conduct by the patentee under the provisions of the Paris Convention on the Prevention of Abuse by Patentees, which are included in the TRIPS Agreement. However, Article 31(f) of the TRIPS Agreement requires that "any such use shall be authorised primarily for supply to the domestic market of the Member authorising such use".

According to R. L. Okediji: "Similarly, WTO Members can take advantage of the 'flexibility' of TRIPS to provide certain limitations and exceptions to copyright. There are certain examples of these limitations and exceptions under the TRIPS Agreement and the Berne Convention provisions incorporated therein." [13, 125]:

In turn, C.Gager explains that "The provisions of the Berne Convention contain fundamental principles that are generally interpreted as 'fair dealing' or 'fair use' in relation to copyrighted works"[14, 48].

Agreeing with this position, we can say that Article 10(2) of the Berne Convention does allow the use of literary or artistic works "to the extent justified by the purpose" as an illustration in publications, broadcasts or sound or visual recordings for teaching, provided that such use is compatible with fair use. In addition, Article 9(2) of the Berne Convention authorises "the reproduction of such works in certain special cases, provided that such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author". The TRIPS Agreement also includes a Berne Annex that allows Members to issue compulsory licences to purchase or reproduce imported works to facilitate access to foreign literary and artistic works (i.e. where remuneration is unavailable). Moreover, there are provisions in the Agreement that allow copyrighted works to be used for both personal and educational purposes. Since the TRIPS Agreement does not harmonise substantive copyright and trademark laws, infringement of rights conferred by copyright and trademark can only be determined in each jurisdiction. The emphasis on the laws of the country of importation in the definitions indicates that the definitions should only establish procedures for border measures and not other forms of infringement, for which Member States are obliged to make civil procedures and remedies available.

In the case of software, the TRIPS Agreement protects software as a literary work, but does not address reverse engineering (engineering) of software and the development of other programmes that may interact with the surrendered software. This aspect is used to encourage innovation and competition in the software industry.

Considering the issue of the concept of "flexibilities" in the implementation of international legal norms in the field of intellectual property in the legislation of the Republic of Uzbekistan, in particular, in the implementation of the norms of the TRIPS Agreement, we note that this concept will give legal opportunity to the Republic of Uzbekistan not to comply with the obligations established by the TRIPS Agreement during the transition period. But in any case, the Republic of Uzbekistan will retain its obligations to comply with the principles of national treatment and Most Favoured Nation Treatment (Articles 3 and 4 of the TRIPS Agreement).

At the same time, according to paragraph 1 of Article 65 of the TRIPS Agreement, "subject to paragraphs 2, 3 and 4, no Member shall be obliged to apply the provisions of this Agreement until the expiration of a general period of one year after the date of entry into force of the WTO Agreement"[15].

At the same time, for the Republic of Uzbekistan during the implementation of the concept of "flexibilities" in the transition period in accordance with paragraphs 1, 2, 3 or 4 of Article 65, paragraphs 1, 2, 3 or 4 of the TRIPS Agreement will remain the obligations specified in paragraph 5 of Article 65 of the TRIPS Agreement: "any changes made during this period in its laws, other legal acts and practices shall not diminish the degree of their compliance with the provisions of this Agreement".

Thus, in implementing international intellectual property law, "flexibilities" present countries with the opportunity to utilise international intellectual property law to the extent that it is in their national interest.

In general, members of the TRIPS Agreement are allowed parallel imports to fulfil national public interests, including reducing the price of patented medicines. In addition, countries may define patentability criteria differently to promote the national IP base. Similarly, the TRIPS agreement allows the use of a patent without the consent of the right holder in the case of non-commercial use, a public use that encourages scientists to conduct research on patented inventions and promote domestic innovation.

In addition, according to C. Deere, "WTO Members may include provisions in their legislation authorising parallel imports. They can usually provide a definition of 'consent' in relation to the establishment of exhaustion of rights, such as allowing a third party to advertise a product or an action to bring a product to market by the patentee or other authorised party, and where a compulsory licence has been granted or the patentee does not exercise the patent in the country"[16, 75].

It is important to note that in national legislation the exhaustion of the right to IP is regulated by the Civil Code of the RUz, in particular, according to Article 1107¹ of the RUz: "It is not an infringement of the exclusive right to a trademark to use this trademark by other persons in respect of goods that were lawfully introduced into civil turnover directly by the owner of the trademark or with his consent"[17].

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**ИЖТИМОЙ-ГУМАНИТАР ФАНЛАРНИНГ
ДОЛЗАРБ МУАММОЛАРИ**

№ 7 (4) – 2024

**АКТУАЛЬНЫЕ ПРОБЛЕМЫ СОЦИАЛЬНО-
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100070. Тошкент шаҳри, Яккасарой
тумани, Кичик Бешёғоч кўчаси, 70/10-
уй. Электрон манзил:

scienceproblems.uz@gmail.com

Боғланиш учун телефонлар:

(99) 602-09-84 (telegram).