

SCIENCE
PROBLEMS.UZ

ISSN 2181-1342

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

**Ijtimoiy-gumanitar
fanlarning dolzarb
muammolari**

1/S-son (5-jild)

2025

SCIENCEPROBLEMS.UZ

**IJTIMOIIY-GUMANITAR FANLARNING
DOLZARB MUAMMOLARI**

№ 5/1 (5) - 2025

**АКТУАЛЬНЫЕ ПРОБЛЕМЫ СОЦИАЛЬНО-
ГУМАНИТАРНЫХ НАУК**

ACTUAL PROBLEMS OF HUMANITIES AND SOCIAL SCIENCES

TOSHKENT-2025

BOSH MUHARRIR:

Isanova Feruza Tulqinovna

TAHRIR HAY'ATI:

07.00.00- TARIX FANLARI:

Yuldashev Anvar Ergashevich – tarix fanlari doktori, siyosiy fanlar nomzodi, professor, O'zbekiston Respublikasi Prezidenti huzuridagi Davlat boshqaruvi akademiyasi;

Mavlanov Uktam Maxmasabirovich – tarix fanlari doktori, professor, O'zbekiston Respublikasi Prezidenti huzuridagi Davlat boshqaruvi akademiyasi;

Xazratkulov Abror – tarix fanlari doktori, dotsent, O'zbekiston davlat jahon tillari universiteti.

Tursunov Ravshan Normuratovich – tarix fanlari doktori, O'zbekiston Milliy Universiteti;

Xolikulov Axmadjon Boymahammadovich – tarix fanlari doktori, O'zbekiston Milliy Universiteti;

Gabrielyan Sofya Ivanovna – tarix fanlari doktori, dotsent, O'zbekiston Milliy Universiteti.

Saidov Sarvar Atabullo o'g'li – katta ilmiy xodim, Imom Termiziy xalqaro ilmiy-tadqiqot markazi, ilmiy tadqiqotlar bo'limi.

08.00.00- IQTISODIYOT FANLARI:

Karlibayeva Raya Xojabayevna – iqtisodiyot fanlari doktori, professor, Toshkent davlat iqtisodiyot universiteti;

Nasirxodjayeva Dilafuz Sabitxanovna – iqtisodiyot fanlari doktori, professor, Toshkent davlat iqtisodiyot universiteti;

Ostonokulov Azamat Abdukarimovich – iqtisodiyot fanlari doktori, professor, Toshkent moliya instituti;

Arabov Nurali Uralovich – iqtisodiyot fanlari doktori, professor, Samarqand davlat universiteti;

Xudoyqulov Sadirdin Karimovich – iqtisodiyot fanlari doktori, dotsent, Toshkent davlat iqtisodiyot universiteti;

Azizov Sherzod O'ktamovich – iqtisodiyot fanlari doktori, dotsent, O'zbekiston Respublikasi Bojxona instituti;

Xojayev Azizxon Saidaloxonovich – iqtisodiyot fanlari doktori, dotsent, Farg'ona politexnika instituti

Xolov Aktam Xatamovich – iqtisodiyot fanlari bo'yicha falsafa doktori (PhD), dotsent, O'zbekiston Respublikasi Prezidenti huzuridagi Davlat boshqaruvi akademiyasi;

Shadiyeva Dildora Xamidovna – iqtisodiyot fanlari bo'yicha falsafa doktori (PhD), dotsent v.b, Toshkent moliya instituti;

Shakarov Qulmat Ashirovich – iqtisodiyot fanlari

nomzodi, dotsent, Toshkent axborot texnologiyalari universiteti

09.00.00- FALSAFA FANLARI:

Hakimov Nazar Hakimovich – falsafa fanlari doktori, professor, Toshkent davlat iqtisodiyot universiteti;

Yaxshilikov Jo'raboy – falsafa fanlari doktori, professor, Samarqand davlat universiteti;

G'aybullayev Otabek Muhammadiyevich – falsafa fanlari doktori, professor, Samarqand davlat chet tillar instituti;

Saidova Kamola Uskanbayevna – falsafa fanlari doktori, "Tashkent International University of Education" xalqaro universiteti;

Hoshimxonov Mo'min – falsafa fanlari doktori, dotsent, Jizzax pedagogika instituti;

O'roqova Oysuluv Jamoliddinovna – falsafa fanlari doktori, dotsent, Andijon davlat tibbiyot instituti, Ijtimoiy-gumanitar fanlar kafedrasini mudiri;

Nosirxodjayeva Gulnora Abdukaxxarovna – falsafa fanlari nomzodi, dotsent, Toshkent davlat yuridik universiteti;

Turdiyev Bexruz Sobirovich – falsafa fanlari bo'yicha falsafa doktori (PhD), dotsent, Buxoro davlat universiteti.

10.00.00- FILOLOGIYA FANLARI:

Axmedov Oybek Saporbayevich – filologiya fanlari doktori, professor, O'zbekiston davlat jahon tillari universiteti;

Ko'chimov Shuxrat Norqizilovich – filologiya fanlari doktori, dotsent, Toshkent davlat yuridik universiteti;

Hasanov Shavkat Ahadovich – filologiya fanlari doktori, professor, Samarqand davlat universiteti;

Baxronova Dilrabo Keldiyorovna – filologiya fanlari doktori, professor, O'zbekiston davlat jahon tillari universiteti;

Mirsanov G'aybullo Qulmurodovich – filologiya fanlari doktori, professor, Samarqand davlat chet tillar instituti;

Salaxutdinova Musharraf Isamutdinovna – filologiya fanlari nomzodi, dotsent, Samarqand davlat universiteti;

Kuchkarov Raxman Urmanovich – filologiya fanlari nomzodi, dotsent v/b, Toshkent davlat yuridik universiteti;

Yunusov Mansur Abdullayevich – filologiya fanlari nomzodi, O'zbekiston Respublikasi Prezidenti huzuridagi Davlat boshqaruvi akademiyasi;

Saidov Ulugbek Aripovich – filologiya fanlari nomzodi, dotsent, O'zbekiston Respublikasi Prezidenti huzuridagi Davlat boshqaruvi akademiyasi.

12.00.00- YURIDIK FANLAR:

Axmedshayeva Mavlyuda Axatovna – yuridik fanlar doktori, professor, Toshkent davlat yuridik universiteti;

Muxitdinova Firyuza Abdurashidovna – yuridik fanlar doktori, professor, Toshkent davlat yuridik universiteti;

Esanova Zamira Normurotovna – yuridik fanlar doktori, professor, O'zbekiston Respublikasida xizmat ko'rsatgan yurist, Toshkent davlat yuridik universiteti;

Hamroqulov Bahodir Mamasharifovich – yuridik fanlar doktori, professor v.b., Jahon iqtisodiyoti va diplomatiya universiteti;

Zulfiqorov Sherzod Xurramovich – yuridik fanlar doktori, professor, O'zbekiston Respublikasi Jamoat xavfsizligi universiteti;

Xayitov Xushvaqt Saparbayevich – yuridik fanlar doktori, professor, O'zbekiston Respublikasi Prezidenti huzuridagi Davlat boshqaruvi akademiyasi;

Asadov Shavkat G'aybullayevich – yuridik fanlar doktori, dotsent, O'zbekiston Respublikasi Prezidenti huzuridagi Davlat boshqaruvi akademiyasi;

Ergashev Ikrom Abdurasulovich – yuridik fanlari doktori, professor, Toshkent davlat yuridik universiteti;

Utemuratov Maxmut Ajimuratovich – yuridik fanlar nomzodi, professor, Toshkent davlat yuridik universiteti;

Saydullayev Shaxzod Alixanovich – yuridik fanlar nomzodi, professor, Toshkent davlat yuridik universiteti;

Hakimov Komil Baxtiyarovich – yuridik fanlar doktori, dotsent, Toshkent davlat yuridik universiteti;

Yusupov Sardorbek Baxodirovich – yuridik fanlar doktori, dotsent, Toshkent davlat yuridik universiteti;

Amirov Zafar Aktamovich – yuridik fanlar doktori (PhD), O'zbekiston Respublikasi Sudyalar oliy kengashi huzuridagi Sudyalar oliy maktabi;

Jo'rayev Sherzod Yuldashevich – yuridik fanlar nomzodi, dotsent, Toshkent davlat yuridik universiteti;

Babadjanov Atabek Davronbekovich – yuridik fanlar nomzodi, dotsent, Toshkent davlat yuridik universiteti;

Normatov Bekzod Akrom o'g'li — yuridik fanlar bo'yicha falsafa doktori, Toshkent davlat yuridik universiteti;

Rahmatov Elyor Jumaboyevich — yuridik fanlar nomzodi, Toshkent davlat yuridik universiteti;

13.00.00- PEDAGOGIKA FANLARI:

Xashimova Dildarxon Urinboyevna – pedagogika fanlari doktori, professor, Toshkent davlat yuridik universiteti;

Ibragimova Gulnora Xavazmatovna – pedagogika fanlari doktori, professor, Toshkent davlat iqtisodiyot universiteti;

Zakirova Feruza Maxmudovna – pedagogika fanlari doktori, Toshkent axborot texnologiyalari universiteti huzuridagi pedagogik kadrlarni qayta tayyorlash va ularning malakasini oshirish tarmoq markazi;

Kayumova Nasiba Ashurovna – pedagogika fanlari doktori, professor, Qarshi davlat universiteti;

Taylanova Shoxida Zayniyevna – pedagogika fanlari doktori, dotsent;

Jumaniyozova Muhayyo Tojiyevna – pedagogika fanlari doktori, dotsent, O'zbekiston davlat jahon tillari universiteti;

Ibraximov Sanjar Urunbayevich – pedagogika fanlari doktori, Iqtisodiyot va pedagogika universiteti;

Javliyeva Shaxnoza Baxodirovna – pedagogika fanlari bo'yicha falsafa doktori (PhD), Samarqand davlat universiteti;

Bobomurotova Latofat Elmurodovna — pedagogika fanlari bo'yicha falsafa doktori (PhD), Samarqand davlat universiteti.

19.00.00- PSIXOLOGIYA FANLARI:

Karimova Vasila Mamanosirovna – psixologiya fanlari doktori, professor, Nizomiy nomidagi Toshkent davlat pedagogika universiteti;

Hayitov Oybek Eshboyevich – Jismoniy tarbiya va sport bo'yicha mutaxassislarni qayta tayyorlash va malakasini oshirish instituti, psixologiya fanlari doktori, professor

Umarova Navbahor Shokirovna– psixologiya fanlari doktori, dotsent, Nizomiy nomidagi Toshkent davlat pedagogika universiteti, Amaliy psixologiyasi kafedrasi mudiri;

Atabayeva Nargis Batirovna – psixologiya fanlari doktori, dotsent, Nizomiy nomidagi Toshkent davlat pedagogika universiteti;

Shamshetova Anjim Karamaddinovna – psixologiya fanlari doktori, dotsent, O‘zbekiston davlat jahon tillari universiteti;

Qodirov Obid Safarovich – psixologiya fanlari doktori (PhD), Samarkand viloyat IIB Tibbiyot bo‘limi psixologik xizmat boshlig‘i.

22.00.00- SOTSILOGIYA FANLARI:

Latipova Nodira Muxtarjanovna – sotsiologiya fanlari doktori, professor, O‘zbekiston milliy universiteti kafedra mudiri;

Seitov Azamat Po‘latovich – sotsiologiya fanlari doktori, professor, O‘zbekiston milliy universiteti;

Sodiqova Shohida Marxaboyevna – sotsiologiya fanlari doktori, professor, O‘zbekiston xalqaro islom akademiyasi.

23.00.00- SIYOSIY FANLAR

Nazarov Nasriddin Ataqulovich –siyosiy fanlar doktori, falsafa fanlari doktori, professor, Toshkent arxitektura qurilish instituti;

Bo‘tayeov Usmonjon Xayrullayevich –siyosiy fanlar doktori, dotsent, O‘zbekiston milliy universiteti kafedra mudiri.

OAK Ro‘yxati

Mazkur jurnal Vazirlar Mahkamasi huzuridagi Oliy attestatsiya komissiyasi Rayosatining 2022-yil 30-noyabrdagi 327/5-son qarori bilan tarix, iqtisodiyot, falsafa, filologiya, yuridik va pedagogika fanlari bo‘yicha ilmiy darajalar yuzasidan dissertatsiyalar asosiy natijalarini chop etish tavsiya etilgan ilmiy nashrlar ro‘yxatiga kiritilgan.

“Ijtimoiy-gumanitar fanlarning dolzarb muammolari” elektron jurnali 2020-yil 6-avgust kuni 1368-sonli guvohnoma bilan davlat ro‘yxatiga olingan.

Muassis: “SCIENCEPROBLEMS TEAM” mas’uliyati cheklangan jamiyati

Tahririyat manzili:

100070. Toshkent shahri, Yakkasaroy tumani, Kichik Beshyog‘och ko‘chasi, 70/10-uy. Elektron manzil:

scienceproblems.uz@gmail.com

Bog‘lanish uchun telefon:

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

MUNDARIJA

07.00.00 – TARIX FANLARI

<i>Мадреймов Фархат Махсетбаевич</i> СОЦИАЛЬНАЯ ПОЛИТИКА В КАРАКАЛПАКСТАНЕ В 1920-1924 ГОДАХ	12-18
<i>Алимджанов Бахтиёр Абдихакимович</i> АНТРОПОЛОГИЯ ИМПЕРСКОЙ ВЛАСТИ: ХАКЕНТСКИЕ ЗЕМЛИ И АДВОКАТ С. ЛАПИН	19-23
<i>Чориев Шохрух Холтура угли</i> ИСТОРИОГРАФИЯ БАНКОВСКОЙ ДЕЯТЕЛЬНОСТИ ТУРКЕСТАНСКОГО ГЕНЕРАЛ- ГУБЕРНАТОРСТВА В 40-90-Е ГОДЫ ХХ ВЕКА	24-35
<i>Najmiddinov Boburmirzo Zuhridin o'g'li</i> SOVET HOKIMIYATINING 1917-1943-YILLARIDA O'ZBEKISTON SSR DA AMALGA OSHIRGAN DINIY SIYOSATI	36-43
<i>Esonova Nilufar</i> SANOAT SOHASIDA XALQARO HAMKORLIK MUNOSABATLAR TARIXINING O'RGANILISHI: TAHLIL VA NATIJALAR (1991-2018-YILLAR)	44-47
<i>Qarshiyev Ahmad, Jumayev Abdimo'min, Bebitov Maqsud</i> DENOV BEKLIQIDA MAVJUD JOY NOMLARIGA OID MULOHAZALAR	48-55
<i>Qurbonov Abbos</i> MUSTAQILLIKNING DASTLABKI YILLARIDA QASHQADARYODA YENGIL SANOAT SOHASIDA AMALGA OSHIRILGAN ISLOHOTLAR VA ULARNING NATIJALARI	56-59
<i>Abduraimova Sabohat Ergash qizi</i> BUXORO AMRLIGI DAVRIDA CHIROQCHI BEKLIQI AHOLISINING TURMUSH TARZI	60-65

08.00.00 – IQTISODIYOT FANLARI

<i>Karjavova Xurshida Abdumalikovna</i> MAHALLA INSTITUTINING IJTIMOY-IQTISODIY RIVOJLANISH ISTIQBOLLARI	66-73
<i>Pardayev Erkin Egamberdi o'g'li</i> XIZMAT KO'RSATISH KORXONALARIDA SIFATNI BOSHQARISHNING INNOVATSION USULLARI	74-82
<i>Palvanbayev Umidbek O'ktam o'g'li</i> O'ZBEKISTON POCHTA BOZORIDA XUSUSIY POCHTA KORXONALARINING TUTGAN O'RNI (BTS, DMS, EMU POCHTALARI MISOLIDA)	83-86
<i>Чинорова Шаҳодат Мансур кизи, Нормуродов Хусан Эшмаҳматович</i> ЗНАЧЕНИЕ ТАРГЕТИРОВАНИЯ ИНОСТРАННЫХ ИНВЕСТИЦИЙ В РАЗВИТИИ РЕГИОНАЛЬНОЙ ЭКОНОМИКИ	87-93
<i>Gabriel Ayodeji Ogunmola</i> GREEN BONDS: FINANCING RESOURCE CONSERVATION FOR A SUSTAINABLE FUTURE IN FARMING IN UZBEKISTAN	94-108

09.00.00 – FALSAFA FANLARI

<i>Rashidova Dilfuza Ganievna</i> XIX ASR O‘ZBEK SHOIRALARINING IJODIDA GUMANISTIK G‘OYALAR VA IJTIMOY-FALSAFIY QARASHLAR	109-113
<i>Ochilova Nigora Ruzimuratovna</i> GENDER TENGLIGINI TA‘MINLASHNING IQTISODIY-IJTIMOY OMILLARI	114-118
<i>Samadov Jonmurod</i> JALOLIDDIN RUMIY ASARLARIDA FALSAFIY TUSHUNCHALAR VA ULARNING ILMIY–METODOLOGIK TAHLILI	119-123
<i>Kdirbaev Baxadir Berdaxovich</i> AXBOROT JAMIYATI VA MEDIA-MADANIYATNING NAZARIY-FALSAFIY TUSHUNCHASI	124-131
<i>Kurbanbaeva Ulbosin Jumag‘alievna</i> EKOLOGIK XAVFSIZLIK TUSHUNCHASINING MOHIYATI VA XUSUSIYATLARI	132-136
<i>Narzukulova Ferangiz Rustamjonovna</i> ILMIY TIL VA FALSAFIY TERMINOLOGIYA: SHAKLLANISH VA RIVOJLANISH TENDENSIYALARI	137-141
<i>Xolmirzaev Xurshid Nakibillaevich</i> IJTIMOY-KASBIY FAOLIYAT JARAYONIDA SUN‘IY INTELLEKTNING INSON SALOHIYATIGA TA‘SIRI	142-148
<i>Султанов Бахтиёр Бахтиёрович</i> ОБРАЗ ФИЗИЧЕСКОЙ РАЗВИТОЙ, ГЕРОИЧЕСКОЙ ЛИЧНОСТИ В ЭПОХУ АНТИЧНОСТИ	149-153
<i>Bozorov Suxrob Komilovich</i> MA‘NAVIY TRANSFORMATSIYANING ISTIQBOLLARI: INNOVATSION G‘OYA VA LOYIHALAR	154-157
<i>Kimsanbayeva Shaxnoza Bakridinovna</i> MILLIY O‘ZLIK VA DINIY BAG‘RIKENGLIK: ZAMONAVIY JAMIYATDAGI O‘ZARO TA‘SIRLAR	158-163
<i>Muxamedjanova Lalixon</i> GLOBALASHUV VA MADANIYATLARARO ARALASHUV	164-172

10.00.00 – FILOLOGIYA FANLARI

<i>Isanova Feruza Tulqinovna</i> INGLIZ VA O‘ZBEK TILLARIDAGI XALQARO HUQUQ SOHASIGA OID LEKSIK BIRLIKLARNING DIAKRON TADQIQI	173-180
<i>Mahmudova Umida Ural qizi</i> INTERNET DISKURSIDA FOYDALANILADIGAN EMOJILARNING LISONIY VA MADANIY JIHATLARI	181-189
<i>Madalov Navruz Ergashevich</i> IMPORTANT SUBJECTS OF COMPARATIVE AND CONTRASTIVE PHILOLOGICAL STUDIES AND TRANSLATION DIFFICULTIES OF STRUCTURAL–SEMANTIC MODELS OF PROVERBS	190-194
<i>Ubaydullayev Normuhammad Xasanovich</i> XOTIRANOMALARDA ZAMON VA MAKON MASALASI	195-198

<i>Ochilova Habiba Akramovna</i> ISSUES IN THE CLASSIFICATION OF QUESTION SENTENCE TYPES IN LINGUISTICS ...	199-207
<i>Muxammadiyeva Mashxura, Amirqulova Gulxayo</i> FILOLOGIK TADQIQOTLARNING ZAMONAVIY TIBBIY TARJIMA VA TALQINGA TA'SIRI	208-213
<i>Karabaeva Barno Bobir qizi</i> A COMPARATIVE ANALYSIS OF METAPHORICAL EXPRESSIONS REFLECTING PERCEPTION IN ENGLISH AND UZBEK LANGUAGES	214-219
<i>Axunbabaeva Narqiza Hamidjanovna</i> ЛИНГВОПРАГМАТИЧЕСКИЙ АНАЛИЗ ПЕРЕВОДОВ ИСТОРИЧЕСКИХ И АРХАИЧНЫХ СЛОВ В ДОКУМЕНТАЛЬНО-ИСТОРИЧЕСКОЙ ПОВЕСТИ «ВЛАСТИТЕЛЬ СЕМИ СОЗВЕЗДИЙ»	220-226
<i>Turdaliyeva Shahnoza O'ktamovna</i> INGLIZ VA O'ZBEK TILLARIDAGI SON-GIBRID MAQOLLARNING LEKSIK-SEMANTIK TAHLILI	227-236
<i>Mansurova Shohista Isroilovna</i> OT OBRAZI TUSHUNCHASI (ZAMONAVIY O'ZBEK VA JAHON ADABIYOTI MISOLIDA)	237-241
<i>Davranov Akmal Akramjonovich</i> IJTIMOIY TENGLIK TUSHUNCHASI (INGLIZ UTOPIYALARI VA O'ZBEK DOSTONLARI MISOLIDA)	242-246
<i>Yuldasheva Aziza Yuldashevna</i> TARJIMASHUNOSLIKDA PRAGMATIKANING O'RNI	247-252
<i>Mirvaliyeva Malika Zoid qizi</i> SEMANTIKANING TARJIMADAGI AHAMIYATI	253-257
<i>Sidiknazarova Zulfiya Mirsharapovna</i> JADID ADABIYOTI VA MODERNIZATSIYA JARAYONLARI	258-262
<i>Ruzibayeva Aziza Kahramanovna</i> THE MOOD OF LONGING FOR FREEDOM IN THE AGE OF BYRON	263-266
<i>Narzikulova Rayhona Ahmadovna</i> THE PRAGMATIC FUNCTIONS OF IRONY	267-271
<i>Najmiddinov Muhammadjon</i> O'ZBEK TILIDA KO'P MA'NOLILIK, SINONIMIYA, OMONIMIYA VA ULARNING ELEKTRON TEZAVURUSDA AKS ETISHI	272-278
<i>Achilov Oybek Rustamovich</i> LEKSIK-SEMANTIK DEVIATSIYA ILGARI SURISH VOSITASI SIFATIDA	279-284
<i>Tashpulatova Mukambar Axmetovna</i> KOMPYUTER LINGVISTIKASI VA SUN'IY INTELLEKTNING TILGA TA'SIRI	285-289
<i>Normamatov Farrux, Toshpo'latova Xusniya</i> GLOBAL KESIMDA INGLIZ MADANIYATINING LINGVOKULTUROGIK JIHATLARI	290-293
<i>Shonazarova Gulnoza, Madiyeva Madina</i> THE ROLE OF INTERNET RESOURCE IN IMPROVING TEACHING FOREIGN LANGUAGE: METHODOLOGICAL ANALYSIS AND PRACTICAL RECOMMENDATIONS	294-297

<i>Jo'rayeva Lola Tolibdjonovna</i> IJTIMOIY TARMOQLARDA NEOLOGIZMLARNING BUGUNGI KUNDAGI QO'LLANILISHI	298-302
<i>Saitxanova Aziza Xolmuxamedovna</i> TA'M VA TIL O'RTASIDAGI MUVOZANAT: TAOM DISKURSINING TARJIMA QIYINCHILIKLARI VA YECHIMLARI	303-307
<i>Axmedov Shaxzod, Nazarov Vafokul</i> NEOLOGIZMLAR TADQIQI TARIXIGA DOIR	308-312
<i>Mustafayeva Sojida Ulashevna</i> INGLIZ VA O'ZBEK TILLARDA MERONIMIK MUNOSABATLI SO'ZLARNING LEKSIKOGRAFIK TALQINLARI	313-321
<i>Buriyeva Muxayyo Zokir qizi</i> COMPARATIVE ANALYSIS OF MEAT IN ENGLISH AND UZBEK LANGUAGES	322-326
<i>Berdiqulova Shaxnoza Ruziqulovna</i> YORDAMCHI SO'ZLARNING SHAKLIY XUSUSIYATLARIGA KO'RA TURLARI VA YASALISHI: BOG'LOVCHILAR	327-330
<i>Shokirova Gulbahor Alimovna</i> NEMIS TILINI O'QITISHDA YANGI YONDASHUVLAR	331-334
<i>Najmidinova Nafisa Ulja qizi</i> O'ZBEK TILIDA SO'ZLASHUVCHILARGA ITALYAN TILINI O'RGATISHDAGI MUAMMOLAR VA ULARNING YECHIMLARI	335-339
12.00.00 - YURIDIK FANLAR	
<i>Утемуратов Махмут Ажимуратович</i> СОВРЕМЕННЫЕ ТЕНДЕНЦИИ ТРАНСФОРМАЦИИ ПРАВА (ОТ ТРАДИЦИОННОГО К ЦИФРОВОМУ ПРАВУ)	340-344
<i>Masadikov Sherzodbek</i> ENFORCEMENT OF ARBITRATION AGREEMENT UNDER UZBEK LAW	345-351
<i>Alieva Kamola Ravshanovna</i> ONLINE GENDER-BASED VIOLENCE IN UZBEKISTAN: GAPS IN LEGISLATION AND THE PATH FORWARD	352-363
<i>Utebaev Salamat Maqsetbay o'g'li</i> KONTRABANDA UCHUN JAVOBGARLIK TO'G'RISIDAGI QONUNCHILIK EVOLYUTSIYASI: TARIXIY-HUQUQIY TAHLIL	364-372
<i>Ходжаева Ширин</i> ЮРИДИЧЕСКАЯ ПРИРОДА ВСЕМИРНОЙ ОРГАНИЗАЦИИ ЗДРАВООХРАНЕНИЯ В СИСТЕМЕ МЕЖДУНАРОДНОГО ПРАВА	373-378
<i>Каюмова Асаля Султномуродовна</i> ЭЛИТА ИНДУСТРИИ ВЕНЧУРНОГО КАПИТАЛА	379-384
<i>Mirzaraximov Baxtiyor, Shokirov Bobur</i> ZAMONAVIY TASHKILOTLARDA KIBERXAVFSIZLIK STRATEGIYALARINING SHAKLLANISHI VA SAMARADORLIGI: MA'LUMOTLARNI HIMOYA QILISH CHORALARINING RIVOJLANISHI VA NATIJADORLIGI TAHLILI	385-392

<i>Суннатиллаева Сарвиноз Иззатулло кизи</i> ДИСКРЕЦИОННЫЕ ПОЛНОМОЧИЯ В ЕВРОПЕЙСКОМ СОЮЗЕ И СОВЕТЕ ЕВРОПЫ: ПРЕДЕЛЫ, КОНТРОЛЬ И СУДЕБНАЯ ПРАКТИКА	393-400
<i>Dilboboyev Nozimbek</i> CHET ELLIK INVESTORLARNING HUQUQIY MAQOMI HAMDA ULARNI DAVLAT TOMONIDAN QO'LLAB-QUVVATLASH BO'YICHA IMTIYOZ VA PREFERENSIYALAR BERISH	401-406
<i>Raximbayev O'tkir Fayzullayevich</i> YANGI O'ZBEKISTONDA TURIZM SOHASIDAGI QONUNCHILIKNI TAKOMILLASHTIRISH MASALASIGA NAZAR	407-414
<i>Ubaydullayev Abror Qutpilla o'g'li</i> HOZIRGI ZAMON ISLOM MOLIYA HUQUQI VA AN'ANAVIY HUQUQIY TIZIMLAR O'RTASIDAGI QIYOSIY-HUQUQIY TAHLIL VA UNING O'ZIGA XOS XUSUSIYATLARI	415-423
<i>Zokirov Sardorjon Karimjon ugli</i> PROCEDURAL FEATURES OF PARTICIPATION DEFENSE COUNSEL AT THE PRELIMINARY INVESTIGATION	424-430
<i>Axmedova Guliruxsor Ravshanovna</i> BOLANI OLIB BERISH VA UCHRASHTIRISH BILAN BOG'LIQ ISHLARNI KO'RIB CHIQISH BO'YICHA SUD VA HUQUQIY AMALIYOTNING DOLZARB MUAMMO VA YECHIMLARI	431-436
<i>Zoilboyev Javlon Karimjon o'g'li</i> MA'MURIY SUD ISHLARINI YURITISHDA QONUNIY KUCHGA KIRGAN SUD HUJJATLARINI YANGI OCHILGAN HOLATLAR BO'YICHA QAYTA KO'RISH YUZASIDAN ISH YURITISH MAZMUNI	437-441
<i>Hakimov Sunnat Furqat o'g'li</i> SPORT JAMOAT BIRLASHMALARINING HUQUQIY TAHLILI	442-445
<i>Файзиев Фарход Фуркат угли</i> ЗНАЧИМОСТЬ ЭЛЕКТРОННОЙ ТОРГОВЛИ В СОВРЕМЕННЫХ ГРАЖДАНСКО-ПРАВОВЫХ УСЛОВИЯХ	446-452
<i>Файзиева Гулрух Мухаммади кизи</i> МЕХАНИЗМЫ ОБЕСПЕЧЕНИЯ ПРАВА НА НЕПРИКОСНОВЕННОСТЬ ЖИЛИЩА	453-459
13.00.00 – PEDAGOGIKA FANLARI	
<i>Polvonov Baxtiyor Zaylobidinovich</i> TIBBIYOT UNIVERSITETLARIDA «MODDALARNING NURLANISH SPEKTRINI O'RGANISH» MAVZUSINI IT TECHNOLOGIYALAR ASOSIDA NAMOYISH ETISH MASALALARI	460-466
<i>Hamdamova Nozima Muqimovna</i> BO'LAJAK TECHNOLOGIYA FANI O'QITUVCHISI KOMPETENSIYALARINI RIVOJLANTIRISHNING PEDAGOGIK SHART-SHAROITLARI	467-475
<i>Zulfixarov Ilxom Maxmudovich, Zulfikorova Munajat Mirzaxmatovna</i> IQTISODIY-IJTIMOYIY GEOGRAFIK BILIMLAR BERISHDA MATEMATIK METODLARDAN FOYDALANISH	476-481
<i>Qurbonova Nigina Boboxo'jayevna</i> ESDALIKLAR — SADRIDDIN AYNIYNING UMR VA XOTIRA KITABI	482-488

<i>Toshtemirova Saodat Abdurashidovna</i> KLAUSTER TIZIMIDA TARIX FANLARINI O'QITISHNING PEDAGOGIK SHART-SHAROITLARI	489-494
<i>Inoyatov Odiljon Sabitovich</i> TEKISLIK LARNING O'ZARO PARALLELLIGI	495-500
<i>Жумамуратова Аибахар Нурмуханбетовна</i> СОВЕРШЕНСТВОВАНИЕ МЕХАНИЗМА РАЗВИТИЯ КОГНИТИВНЫХ КОМПЕТЕНЦИЙ У БУДУЩИХ УЧИТЕЛЕЙ НА ОСНОВЕ МЕЖДИСЦИПЛИНАРНЫХ СВЯЗЕЙ	501-508

Received: 15 February 2025
Accepted: 20 February 2025
Published: 25 February 2025

Article / Original Paper

PROCEDURAL FEATURES OF PARTICIPATION DEFENSE COUNSEL AT THE PRELIMINARY INVESTIGATION

Zokirov Sardorjon Karimjon ugli

Lecturer of the Department of Criminal Procedure
Tashkent State University of Law

Abstract. This article considers the problem of increasing the scope of procedural powers of the defense counsel in pre-trial proceedings, which is closely related to his role in the process of forming the evidence base. In our opinion, granting the defense counsel the right to directly participate in the collection of evidence at the pre-trial stage would significantly increase the effectiveness of legal assistance provided to the participants of criminal proceedings, would contribute to the achievement of objective truth in the case and would maximally guarantee the observance of fundamental rights and legitimate interests of the individual.

Keywords: defender, preliminary investigation, liberalization, criminal proceedings, court, judge, legal reforms.

DASTLABKI TERGOV BOSQICHIDA HIMOYACHINING ISHTIROKINING PROTSESSUAL XUSUSIYATLARI

Zokirov Sardorjon Karimjon o'g'li,

Toshkent davlat yuridik universiteti
Jinoyat-protsessual huquqi kafedrası

Annotatsiya. Ushbu maqolada dastlabki tergov bosqichida himoyachining huquqlarini kengaytirish masalalari tadqiq etilgan bo'lib, bu bevosita advokatning isbot qilish jarayonida ishtirok etishi bilan bog'liqdir. Bizning fikrimizcha, himoyachiga dalillarni to'plash jarayonida bevosita ishtirok etish imkoniyatining berilishi jinoyat protsessi ishtirokchilariga ko'rsatiladigan professional yuridik yordam sifatini oshirishga, haqiqatni aniqlashga ko'maklashishga xizmat qiladi, shuningdek, shaxsning huquqlari, erkinliklari va qonuniy manfaatlarini to'liq himoya qilinishini ta'minlaydi.

Kalit so'zlar: himoyachi, sud oldidan ish yuritish, demokratlashtirish, jinoyat protsessi, sud organi, sud hokimiyati vakili, qonunchilikni modernizatsiyalash.

DOI: <https://doi.org/10.47390/SPR1342V5SI1Y2025N65>

The level of development of the legal system of the state is reflected in the attention paid to the rights of defense in criminal proceedings. In the modern period, the legislator systematically improves the institution of defense. In the course of modernizing the institution of the legal profession, key attention is being paid to expanding the powers of the defence counsel in pretrial proceedings. At a joint session of the Chambers of the Oliy Majlis on January 28, 2005, the First President of the Republic of Uzbekistan, I.A. Karimov, emphasized that "There is an acute need to revise a number of provisions of criminal and procedural legislation in order to strengthen judicial oversight of the preliminary investigation and pre-trial proceedings[1]. It is required to ensure de facto equality between the prosecution and defense in court proceedings, for which it is necessary to strengthen the position of the Bar[2]. This set

of measures is aimed at strengthening the role of the lawyer and expanding his procedural opportunities at the stage of preliminary investigation, which serves as a guarantee of compliance with the legal rights and freedoms of citizens.

According to I.A. Pikalov, the adversarial principle is inextricably linked to the mandatory equality of the parties in the process and can be realized only when the defense is endowed with a sufficient amount of procedural rights, opportunities and appropriate specificity of activity[3].

The increase in the procedural powers of the defense counsel in pre-trial proceedings is directly related to his participation in the process of forming the evidentiary base. Providing the defense counsel with the opportunity to actively participate in the collection and examination of evidence can significantly improve the quality of legal assistance, contribute to the establishment of objective truth in the case and ensure the effective protection of fundamental rights and legitimate interests of the individual in criminal proceedings.

The key mechanism of realization of the function of proof by the defense counsel is his participation in investigative actions. In the course of these, the defence counsel seeks to identify circumstances and collect evidence relevant to determining the degree of guilt of the defendant, the correct classification of the act, and the individualization of liability or exemption from liability. The modern criminal procedural legislation of the Republic of Uzbekistan provides for a set of investigative actions in which the defense counsel is entitled to participate jointly with the defendant. As a result of the consistent modernization of the judicial and legal system of the country, aimed at strengthening the adversarial nature of the process, the defence counsel was granted the right to intervene in the case at any stage of the case, including the moment of actual restriction of the detainee's freedom of movement[4]. This provision is in line with international standards of human rights protection and meets the principles of fair trial.

Detailing the procedural status of the defense counsel, the modern criminal procedural legislation of Uzbekistan establishes the following points of his or her entry into the case:

- initiation of criminal prosecution against a particular person Art. 262 of the CPC of the RUz;
- actual detention of the suspect, including the application of a preventive measure prior to indictment (with a time limit of up to 48 hours from the moment of detention or remand in custody according to Article 226 of the CPC of the RUz);
- announcement of the order for a forensic psychiatric evaluation;
- issuance of a ruling on being brought as an accused person (Articles 45, 361 of the CPC RUz).

The current state of the law, formed as a result of systemic legal reforms, has significantly expanded the procedural toolkit of the defense counsel. Article 87, paragraph 2, of the Code of Criminal Procedure of the Republic of Uzbekistan grants the defense counsel the right to form the evidentiary base by:

- conducting interviews with persons with relevant information;
- obtaining written explanations if consent is given;
- requesting documentation, references and characteristics from state bodies, enterprises and organizations;
- of attorney referrals.

Of particular importance is the provision on the mandatory satisfaction of the defense counsel's petitions to add the obtained materials to the case by the investigator, inquirer or prosecutor[5]. However, despite the apparent breadth of powers, there is a legal gap: Article 87 of the CPC RUz does not define the procedural status of materials collected by the defense counsel and does not regulate the procedure for their procedural fixation. This problem remains the subject of active discussions in the professional community and requires a legislative solution to ensure the real adversarial nature of the process.

Modern legal doctrine, both national and international, continues to debate the procedural status and mechanisms of defense counsel's participation in evidence at pre-trial stages of criminal proceedings. An illustrative example is the experience of the Russian Federation, where part 3 of Article 86 of the CCP gives the defense counsel a set of rights to collect evidence, including:

- obtaining material objects, documentation and other information;
- conducting interviews with the consent of the interviewees;
- requesting official documentation from state bodies, municipal structures and public organizations, which are obliged to provide the requested materials[6].

Similar powers are enshrined in paragraphs 1-3 of Part 3 of Article 6 of the Federal Law of the Russian Federation "On Advocacy and Advocacy"[7]. Nevertheless, V.A. Kamyshin notes a significant legal gap: the legislator, having granted the defense counsel the right to collect evidence, has not developed a detailed procedural mechanism for the implementation of this right and has not created a system of guarantees for its implementation. As a consequence, in the process of proving there is an imbalance of powers between the defense and prosecution[8].

This issue is particularly relevant in the context of digitalization of court proceedings and the emergence of new forms of evidence that require adequate procedural regulation. The need to address these issues is becoming more and more acute in the light of the development of the adversarial principle and ensuring the right to a fair trial.

"A fundamentally different approach to the participation of defense counsel in the evidentiary process is demonstrated by countries with an adversarial system of justice. Especially indicative is the experience of the Anglo-American legal system, where the process of forming the evidentiary base has a unique structure: the search for evidence and its procedural legalization are separated by a time interval. Formalization of evidence is carried out within the framework of a preliminary court hearing, where the materials of both parties are examined and the question of obtaining additional evidence is decided[9].

A significant difference from the continental European and post-Soviet systems is the right of defense lawyers in the United States to conduct a full-fledged "lawyer's investigation"[10]. Although A.N. Vedernikov argues that such activities of American lawyers do not fundamentally differ from extra-procedural training in Russia due to the lack of authority[11], it is difficult to agree with this position for several reasons.

First, the American system gives a special status to the results of a private investigation. It is noteworthy that the materials of police investigation also have no predetermined evidentiary value - their procedural value is determined by the court on a par with the materials of the defense.

Second, the modern system of attorney investigation in the United States relies on a developed infrastructure that includes:

- Support for the Federal Defender's Office
- Cooperation with professional private investigators
- A wide range of legal methods of information collection (observation, interviews, audio recording with the consent of participants)
- Current technological tools for documentation[12]

The system of ensuring equal access to justice deserves special attention. Even indigent defendants, through their lawyers, can engage private investigators - the state finances such expenses from a special budget. According to the current legislation, originating from the 1964 Law on Criminal Justice, indigent defendants have the right to apply for funding for the collection of evidence, expert examinations and other actions necessary for the defense[13].

Long-term practice in the United States convincingly demonstrates that active participation of the defense in pre-trial proceedings not only does not slow down the process, but also contributes to a more effective and faster formation of a comprehensive evidence base, both incriminating and acquitting the defendant. In modern conditions, this experience is particularly relevant in the context of the development of digital technologies and new methods of obtaining evidence.

Analyzing the current trends in the development of the institution of defense in the Asian region, it should be noted the specifics of Chinese legislation, which demonstrates a more conservative approach compared to the Anglo-American model. The procedural rights of defense counsel in the PRC have undergone a gradual development: the right to participate in the preliminary investigation was introduced by Article 306 of the PRC CPC only in 1996. A significant modernization took place in 2012, when amendments to the CPC significantly expanded the powers of the defense lawyer, including the right to meet with the defendant, access to the case file and elements of independent investigation[14]. In the following years, this trend was further developed as part of the overall modernization of the Chinese legal system.

Practice shows that ensuring adversarial proceedings at the early stages of the process creates the foundation for an effective defense in court, allowing the prosecution to present objective counterarguments. This not only contributes to the establishment of the truth, but also complies with modern standards of fair trial. Conversely, the absence or nominal participation of defense counsel in pre-trial proceedings significantly reduces the quality of the preliminary investigation and may lead to biased investigations.

Modern legal doctrine, both national and international, offers the following key directions for modernizing the institution of protection in pre-trial proceedings:

- a) introduction of a full-fledged institute of lawyer's investigation, giving the defense counsel the right to independently collect and form the evidence base, including with the use of modern technical means[16];
- b) legislative consolidation in the CPC of electronic and traditional forms of procedural recording of the results of the lawyer's interview as admissible evidence, including the development of standardized forms of procedural documents[17];
- c) expansion of opportunities for the defense in the use of special knowledge, including the right to independently appoint forensic examinations and engage independent experts[18];
- d) strengthening judicial control by giving the defense the right to apply to the court for authorization of repeated investigative actions, requesting evidence and conducting

independent expert examinations when the investigator refuses to satisfy the relevant petitions[19].

A critical analysis of the current legislation reveals a significant gap in the mechanism of realization of the lawyer's right to collect information. Despite the legislative enshrinement of the right to request the necessary information, the lack of effective sanctions for failure to fulfill lawyer's requests actually leveled this power. In modern conditions it becomes especially relevant in view of the increasing role of information in criminal proceedings.

To address this problem, it is proposed to amend Article 197.1(1) of the Code of Administrative Offences of the Republic of Uzbekistan by supplementing the rule on obstructing the professional activities of an advocate with a provision on the obligation of state bodies, local authorities, voluntary associations and other organizations to provide documents requested by the advocate or certified copies thereof (including in electronic form) within ten days of receipt of the request.

The proposed innovation is aimed at improving the effectiveness of the institution of defense and strengthening the procedural status of an advocate. Timely receipt of the necessary information will ensure quality and prompt legal assistance, which is especially important in the conditions of digitalization of legal proceedings

Under the current conditions of digitalization of judicial proceedings, the issue of access by the defence counsel and the defendant to the case file is of particular importance. The current wording of article 46, paragraph 1, of the Code of Criminal Procedure establishes the right of the accused and his counsel to familiarize themselves with the case file at the conclusion of the preliminary investigation. This right includes the possibility to write out the necessary information, to make copies of documents at their own expense and to use modern technical means of recording. The corresponding provision of Article 375 of the Code of Criminal Procedure imposes an obligation on the investigator to ensure full access to the case file.

Comparative legal analysis demonstrates a worldwide trend to increase the access of the defense to the case file at the early stages of the process. The best practices of developed legal systems (USA, UK, continental Europe, as well as China and Japan) show the effectiveness of early disclosure of information. An illustrative example is the German model, where, according to §147 of the Criminal Procedure Code of the Federal Republic of Germany, the defense counsel has access to the case file at the initial stages of the investigation[20]. At the same time, the defendant, who conducts his own defense, may obtain a similar right upon request[21].

Of particular interest is the American system of disclosure of evidence (Rule 16 of the Federal Rules of Criminal Procedure),[22] which has evolved since the landmark decision in *Brady v. Maryland*. In that case, the court found a violation of the procedural rights of the defense due to the withholding of exculpatory evidence by government authorities despite a request to do so[23].

In the context of modern digitalization, the issue of technical provision of the right to copy case materials is actualized. It is proposed to supplement Articles 31, 34 and 36 of the CPC with provisions on the obligation of investigative bodies, prosecutor's offices and courts to provide defense counsel with access to modern means of copying and scanning documents, including the possibility of creating electronic copies.

Of particular importance is the introduction of electronic document flow and the creation of secure digital platforms for access to case files, which corresponds to modern trends in the digitalization of justice and ensures a more effective realization of the right to defense.

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№ S/1 (5) – 2025

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Tahririyat manzili:

100070. Toshkent shahri, Yakkasaroy tumani, Kichik Beshyog‘och ko‘chasi, 70/10-uy. Elektron manzil:

scienceproblems.uz@gmail.com

Bog‘lanish uchun telefon:

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