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Historical and Theoretical Analysis of the News Regarding "The Right to Image" In the Project of the New Edition of the Civil Code of the Republic of Uzbekistan

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Abstract: *Protection of citizen's image is of urgent importance in today's era of advanced information communication. Because the types of means of obtaining and distributing the image of a citizen are very wide, and the image can be used for various malicious and illegal purposes. This leads to the violation of the right to the image, which is considered one of the objects of personal property rights of the citizen. In this article, one of the amendments to the draft of the new Civil Code of the Republic of Uzbekistan is a historical-theoretical reflection of the innovation related to the citizen's right to the image.*

Keywords: *Civil rights, intangible objects, privacy, right to image.*

Due to its diversity, the breadth and somewhat complexity of the legal structure, as well as the "flexibility" of its norms, in the words of the doctor of legal sciences, professor N.Imomov, the free autonomy of the participants of the legal relationship is widely allowed, and the maximum level of state intervention legislation is of great importance in the legal system of Uzbekistan. As one of the special fields of law, civil law and the legislation related to it are one of the main principles that express the specificity of its legal system, which is the freedom of legal relations of the participants and the limitation of state intervention as much as possible. They are in the constant process of developing new mechanisms for arranging the rules regulating property, personal non-property and organizational-legal (corporate) relations, as far as possible, without mixing public law subjects. The independent state of Uzbekistan, as a republic with the aim of building a civil society, has been consistently improving its civil legislation.

The need to improve the civil legislation has its place in the series of continuous, consistent and stable reforms implemented in the new Uzbekistan. For this reason, by the order of the President of the Republic of Uzbekistan No. F-5464 dated April 5, 2019, the Concept of improving the civil legislation of the Republic of Uzbekistan (hereinafter referred to as the Concept) was approved, and one of the main tasks in it is "inventory of the civil legislation and on this basis improvement on the basis of advanced foreign legal procedures" is defined. Based on this concept, a new draft of the Civil Code was developed, and one of the innovations in it is the special emphasis on the classification of personal property rights and other intangible benefits as an object of civil law. In the current code, among personal property rights and other immaterial benefits, the right to the image of a person was protected along with constitutional rights such

as dignity, privacy, business reputation, privacy of personal life. Now, in the project, a separate norm has been legalized under the name "Protection of one's image", which defines what should be understood by the citizen's image, its protective situations and, on the contrary, in which cases it cannot be the object of protection, the concept of using the image, etc.

The term "image" is not clearly defined by the laws of many countries. The reason for this can be explained by the fact that this concept expands its meaning due to the development of today's technology. For example, in the legislation of our close ally, the Russian Federation, there is no definition of what exactly should be understood by the term "image". Russian lexicographer S.I. Ozhegova defines an image as a visual reproduction of something. T.F. According to Ephraim's explanatory dictionary, the word image has several meanings:

"Image" as an object identifying a citizen means "any image sufficient for identification", i.e. appearance. The appearance of a citizen is a very broad and comprehensive concept, which includes the appearance of a certain person, as well as speech style, behavior, voice, gestures, hairstyle, clothes and includes others. Appearance, of course, is an intangible gift that belongs to a citizen from birth, it is inseparable and cannot be alienated from it. The ability to form a citizen's appearance at will, change or maintain it, to create a circle of persons who give the citizen the opportunity to see his appearance, to determine or allow to determine his appearance. for a certain period of time, through video recording, photography, etc. - is included in the content of this legal privilege.

Appearance is an individualizing component of a citizen in society, therefore, describing a citizen's appearance or his appearance is an integral part of information about his personality. The right to the appearance of a citizen is also very broad, because it is considered a fundamental constitutional right, and it is considered along with rights such as: dignity, honor, professional reputation, the name of a citizen, personal privacy. All personal immaterial benefits are objects of the constitutional right. However, in case of violation of the rights to the specified intangible benefits, the regulation of protection shall be carried out by civil legislation, unless otherwise stipulated by their essence.

From the time when people learned to depict themselves and their species with a very close resemblance, the problem of protecting the rights of the depicted person to his image arose.

However, this problem did not require a legal solution until a certain stage of the development of social relations and law. Disputes that arose were resolved with the help of moral standards or on the basis of existing traditions. This is evidenced by the fact that, in particular, we do not find any mention of the legal regulation of the right to images either in Roman law, in medieval laws, or in primary historical-legal documents.

The need to adopt special rules regulating the rights of a person in relation to his image, as well as the rights and obligations of other persons participating in the use of the image of a citizen, after the optimization of image creation, that is, due to the development of technical means, the rapid creation of copies of existing images, the re-creation of images work, transmission of images through telecommunications and other actions with images became possible, moreover, the trends of using personal images for commercial purposes (in the entertainment and entertainment industry, trade, advertising, etc.) appeared from the time.

It is not surprising that the first attempts to theoretically justify the need to protect the right to images appeared even in developed European countries at the end of the 19th and the beginning of the 20th century, when photography was invented. In Russia, the well-known Russian lawyer Professor I.A. Pokrovsky associated the right to the image with the intimate aspects of human life, which, in his opinion, should be protected from the intrusion of strangers.

He also gave a number of fictional examples as proof of his opinion: "In some cases, the unauthorized use of your image can have a number of negative consequences: for example, in the front window of a store, you are among women who are known for negative vices in society. your photo standing. Similar consequences are someone releasing a picture of your office or home without your permission, or an actor playing a role using your hair style or face image, another example is when the writer, although not specifically telling you, even so, to seal your personal life in his work to the extent that others will recognize it."

At the same time, I.A. Pokrovsky argues that even an imperfect protection of image rights reminds us of the need to respect people's intangible interests; Therefore, even such a defense has a great educational and preventive value.

Another historical figure, the well-known Russian jurist A.V. Zavadsky, defined image ownership as not reproducing and distributing a person's photos without his consent. According to him, "all these actions are presented only to this person, as his monopoly. It is well known that, by its legal structure, the right to own an image is one of the exclusive rights, such as copyright. A.V. Zavadsky gives interesting examples of this. For example, lawyers sharply criticized the decision of the court in the sensational case of photographs of Bismarck's corpse (because at that time, it was rare for the courts to hear cases of violation of the right to the image). At night, two photographers entered the room where Bismarck's body lay through a window, took a number of photographs and put them up for sale. Bismarck's sons sued for the destruction of the photographs, which found the photographers guilty of "disturbance of domestic peace" and ruled in favor of the destruction of the criminal photographs".

Although the right to image was not recognized as a separate right in the above court case, there was an important practice in the creation of the concept in Russia.

In the same period, in another court case, the right to image was confirmed by the court as an independent right. In Belgian jurisprudence at the time, image ownership was directly recognized in the well-known Pelzer process. The Pelzer brothers were accused of murdering a lawyer in Brussels, and the famous panopticon Castana exhibited wax figures of both brothers in a museum. At the request of relatives, a Belgian court ordered the removal of the original portrait from the museum, recognizing that no one (and, in the event of his death, his next of kin) can publicly display or distribute it without his permission.

In the Republic of Uzbekistan, the right to image, although not regulated by a separate norm, is included in the personal property rights and other intangible benefits according to Article 99 of the current Civil Code. In the project, additions were made to this norm and it was relatively filled. The additions are effective protection of the rights and legal interests of the participants in civil-legal relations in Section I, Clause 5 of the Concept of Improving the Civil Legislation of the Republic of Uzbekistan, approved by the Decree of the President of the Republic of Uzbekistan No. F-5464 dated April 5, 2019 It is related to the elimination of legal loopholes in the civil legislation that prevent doing.

Article 178 of the project is devoted to the protection of the image of a citizen, according to which it is defined that the image of a citizen is the recognizable external image of a certain physical person reflected through video, sculpture, painting or other media.

According to the second part of this norm, the consent of this citizen to capture a citizen in an image (including a photo image, a video image or a work of visual art reflecting his image), as well as to use his image, if the citizen has been found to be a minor or incompetent if so, the consent of his legal representatives is required. The following were listed as exceptional cases:

a) when the image is used for the following state or community interests: in order to combat image crime, reporting on events that threaten the security of the state and (or) society;

when announcing a search warrant due to the fact that the person in the image has committed a crime or is missing;

using images of civil servants in the process of performing their official duties;

b) a citizen at public events (concerts, holiday parties, etc.) and in public places (public catering, trade and service facilities, educational institutions, zoos, parks, streets, etc.) is depicted and the purpose of using the image is only to demonstrate general processes in these places;

c) when images of state and public figures and well-known representatives of science, culture and other fields are used for the purpose of disseminating information of great interest to society;

g) if the purpose of photographing a citizen and (or) using his image is to protect the rights of this citizen;

d) when an image of a citizen taken for a fee is used for the purposes intended for taking this image.

In this norm, the use of the citizen's image should be understood as its distribution, processing and display, and if the deceased citizen has children, husband (wife) or parents, the use of the citizen's image should not be allowed without their consent. highlighted.

Consent to photographing a citizen and (or) using his/her image shall be expressed in writing or verbally or by other actions that clearly indicate consent.

Consent to photograph a citizen and (or) use his image does not give the right to use this image to persons other than the person who received this consent.

Deletion of a citizen's image taken and (or) used without complying with the requirements specified in the second and third parts of this article from the source (photo camera, camera, mobile phone and other equipment memory), destruction of material goods with the image of the citizen and must be removed from circulation, as well as removed from any print and electronic mass media, the Internet, and external advertising and promotional materials.

If the citizen (died) without voluntarily fulfilling the requirements of the sixth part of this article by the person(s) who photographed the citizen and (or) used his image - his children, husband (wife) or parents, as minors or incompetent if found - their legal representatives) have the right to apply to the court with such a demand.

Damages and non-compliance with the requirements of this article caused to the citizen and to the person who photographed this citizen and (or) used his image shall be resolved by court procedure.

In formulating the provisions of this article, Article 1018 of the Civil Code of China was taken as a basis, and the fulfillment of the task provided for in Clause 5 of Section IV of the Concept of Norms, i.e., the reliable civil-legal protection of the image of individuals, their personal property rights and other intangible interests offered in order to provide.

As an example from foreign experience, Article 145 of the Civil Code of the Republic of Kazakhstan, Article 9 of the Civil Code of the French Republic, the "1974 Privacy Act" prepared by the US Department of Justice's Office of Privacy and Civil Liberties (OPCL) law and in a number of court cases, in Article 152.1 of the Civil Code of the Russian Federation, the right to image is protected as an intangible object of civil law.

To conclude, the protection of the citizen's image is of urgent importance in today's era of advanced information communication. Because the types of means of obtaining and distributing the image of a citizen are very wide, and the image can be used for various malicious and illegal purposes. This leads to the violation of the right to the image, which is considered one of the objects of personal property rights

of the citizen. For this reason, such a change in the expected law can become an important, widely used norm for the protection of the rights and interests of the citizens of the Republic.

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