

Concepts And Procedures Of Private Property Under The Legislation Of The Republic Of Uzbekistan

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Abstract

Property issues and their legal basis are extremely important for the country's economy, it can be said that they are crucial. The main factor determining the effectiveness of socio-economic reforms and the well-being of the country's population also depends on how the issue of property is resolved and the stability of its legal framework.

It should be noted that today there are both theoretical and practical problems in understanding the forms of property and, on this basis, the application of legislation related to them. In particular, there are differences and different approaches between the Law of the Republic of Uzbekistan "On Property in the Republic of Uzbekistan" of October 31, 1990 and the Civil Code, which came into force on March 1, 1997. factors such as different applications.

In addition, it is necessary to determine the status of private businesses, to differentiate between state and non-state enterprises, to distinguish between state-owned joint stock companies and various companies, holdings and enterprises from private entities, and to study the application of legislation on privileges and opportunities. is relevant in terms of. In addition, there is a need for a scientific and legal analysis of the new conditions created for the organization and conduct of private entrepreneurship, the protection of their rights and the elimination of bureaucracy and red tape in the development of entrepreneurship.

Keywords: Private property, civil law, ownership, understanding of the right, possession, right of use, disposal, protection of the right.

Introduction

Property as an economic and legal category has always been viewed differently and has always been considered as one of the most conceptual issues in any state and society. Depending on how the issue of property is resolved in the country, it is possible to determine the level of economic development of the state and the well-being of the people. It is therefore important that the issue of property, in particular private property and its status, is properly defined in terms of legal regulation.

The concept of private property, that is, the understanding and interpretation of the concept of private property, is a key issue in economic relations and their legal regulation. Harmony and identity in the interpretation of private property as an economic and legal category, their complementarity play a special role.

According to the traditional view of the formation of property and private property relations, the category of property occurs when there are at least two subjects. Robinson Crusoe is a common example of this. Robinson Crusoe had items in his use

and consumption, but he could not communicate with anyone about these items.

It was therefore not possible in this case to consider Robinson Crusoe as a full-fledged owner. Based on the details of the novel, the emergence of Jumavoy created a relationship between Robinson Crusoe and Jumavoy towards things and property at the same time.

At a time when humanity was still hunting and gathering and consuming the bounties of nature (Paleolithic, Mesolithic), the concept of property did not exist at first. However, with the advent of the manufacturing economy in the Neolithic period, tools of labor, household goods, housing, and livestock became private property. Later, land also became private property.

Review of the literature on the topic

Historically, the source of the formation of private property is public property. This is evidenced by the terms used at that time to name private property. Originally, private property was defined by the term "dominium", which also used the term "ex iure Quiritium", which means "under the right of the Quirites". The term meant that the property belonged first to the Roman people and then to Roman citizens in the form of private property. In the last days of the Roman Republic, the term "proprietas" was used to denote private property[1].

Analysis and Results

While in Roman private law the right to private property is absolute, in Justinian's digestions the right to property is defined as an inalienable right to own, use, and dispose of property. These founding principles of Roman private law were reflected in the legislation of a number of Western European countries and led to the recognition of property as unique, indivisible and inviolable. This, in turn, meant that the owner of private property had the right to acquire and alienate material goods, to produce, exchange, and to dispose of income in the interests of his own interests.

In Muslim law, in particular in Hidoya, due to the religious nature of the institution

of property, the religious approach to the concept of property is clearly visible, which is based on religious interpretations. According to him, all property ultimately belongs to Allah alone. However, in this case, Allah is not the owner in the legal sense, but the supreme possessor of all the blessings entrusted to him.

Some authors tend to interpret the relationship between God and the slave as a trust agreement, in which the Creator is the founder of trust management, the slave is the trustee, and the community is the beneficiary.

According to the famous Islamic scholar Ibn Khaldun, the right to property is hidden in human nature. The desire to have the right to property is given to man in advance, and the exercise of this right is the satisfaction of man's natural needs.

Moreover, Ibn Khaldun argues that man cannot exist alone, because, first, man is a political being and he feels the need to unite; second, man is not able to satisfy his natural needs independently. It is these factors that require people to unite their efforts, which leads to the formation of property relations. In general, Ibn Khaldun connects the formation of the state with private property.

The Islamic economic model can be summarized in the following conceptual relations, formed at the scientific-practical conference of the League of Arab States in November 1988 in Tunis on the problem of Islamic economic systems:

full property rights belong only to Allah (through Him belongs to the entire Muslim community). His servant, on the other hand, is a trustworthy steward who can only dispose of the riches and blessings at his disposal;

legal methods of acquisition of private property are limited to the use of funds and payment of financial debts;

In Islam, the economic order must be in harmony with social justice[2].

Modern Muslim jurisprudence, on the other hand, pays special attention to property relations. In particular, based on

the views of medieval jurists, Muslim jurisprudence is trying to put these relations into a modern legal mold. This applies to all concepts and categories of property relations, among which the most basic concepts are property.

From a legal point of view, property is an "ideal" property right, because it is in property that the nature of property rights is fully expressed. It is also understood in the name of property rights as a property-related right, which implies the determination of a person's relationship to an object. Along with property rights, there will be a share of non-property rights (intellectual property) in the property. Property is very general in legal terms and the main focus is on the sum of traditional rights. Article 164 of the Civil Code stipulates that the owner has the right to own, use and dispose of his property.

Indeed, even in Roman law, which served as a benchmark for every lawyer, there was no definition of the concept of property. In the post-Roman period, especially in the Middle Ages, under the influence of *ius civile* (Justinian's codified civil law), all attempts to define a single definition of property (as the philosophical basis of civilization) failed, even in a specific "written mind" (*ratio scripta*).

The economic relationship of property is, first of all, the relationship formed between the subjects of economic activity on the basis of material benefits. First of all, the actual relationship - who controls the object of property, has full information about it, decides on the order of its use, alienation and distribution of income, is taken into account.

It should be noted that in the second half of the twentieth century, new economic schools, in particular, the predominant neo-institutionalism, paid special attention

not only to material goods (resources), but also to the possibility of acquiring various benefits through the management and use of these goods[3].

It should be noted that the view that the legal nature of property is derived from its economic nature simply means that the law describes and strengthens the "economic relations of property." Such an emphasis is, in essence, an expression of Marx's thesis that economics is the basis and law is its supremacy. Admittedly, this thesis still lives on in the imagination and works of a number of scientists.

In the economy, it is not the mutual relations of people, but the legal forms of these relations, that is, in which the economic concept of property includes the necessary economic component. In general, property rights (although understood in a somewhat specific way) are the rule of "game" in society, and it is on their basis that supply and demand, which are purely economic relations, are formed[4]. This is not about the term "economic relations of property" in Marx's social theory, but about the "economic theory of property rights", which is central to modern economic theory, of course[5].

Integral analysis of the genesis of property in legal and economic understanding has become a tradition today. Property is not only a specific blessing, but also a set of rights to use this blessing.

In particular, "property rights are, at the same time ... an important economic category", which allows some authors to emphasize that the legal understanding of the economic expression of property is primary[6]. In addition, modern economic theory uses a "set of rights" prepared by the British lawyer A. Onore, which consists of an expanded list of property rights in the form of 11 elements.

№	"Triad" of property rights in the Civil Code of the Republic of Uzbekistan	Anglosaxon tradition	A. Onore's liberal law

1.	Ownership: the ability to keep the property (possession)	To make a will	To own
		Gift	indefinite
		He bought and sold	
		Destroy	security
2.	Right of disposal: the ability to change ownership, alienate and pledge the property and perform other similar actions	Giving as collateral	<i>The right to the "capital value" of an item</i>
		Rent	
		Change the appearance of the item	
		Management	
3.	The right of use: the opportunity to acquire income from the item and other useful features	Consumption	Use
		Use	The right to income
		Earnings	
Restrictions and prohibitions on property:			
4.	Abuse of property rights, liability for certain actions in relation to the property belonging to the subject кўлланилиши, чеклашлар: сервитут, гаров	Confiscation by other persons	Application of liability in the form of unification
		Injury	Prohibition of harmful use
		Pollution	
		Assimilation	The color of backwardness
Unauthorized use			

A relatively authentic concept of property is the notion that a person has full rights (dominance) over his or her property. In this regard, it should be borne in mind that the property proposed by G. Hegel is interpreted as the existence of free will to external objects[7]. In his work on the philosophy of law, G. Hegel defines property as a positive, negative and indefinite definition of freedom in relation to things. B.N. Chicherin argues that free will is an important characteristic of property, in which the will of the owner is free, but the limit of such freedom is equal to the limit of other freedom[8].

According to some theories, property rights do not fit into the traditional triad of rights, as any system does not fit into a set

of elements. As many authors have pointed out, property rights can be divided into two conditions: objective (the ability to perform any action other than certain restrictions on property) and subjective (the ability to perform them at will). These powers, which belong to the owner, can be assessed as whether the legislator followed the traditions of civilization or somehow tried to form a general understanding of the content of the property. Therefore, there is an approach that property is the right of a person to have complete control over his property.

It should be noted that in the Middle Ages, after the adoption of Roman law, the exclusion of two (or more) property rights, one of the basic principles of Roman law,

did not correspond to one "property right" of a senior and vassal at the same time. . Feudal law, like Roman law, did not represent a clear boundary between property law and any other right over property. For this reason, feudal law did not ensure the existence of several other rights similar to the right of ownership over one thing. In this regard, glossators have developed the concept of "separate property", which allows two or more identical property rights to a single plot of land (ten, feud) and ensures their existence.

There was no need for Roman law in medieval Europe, dominated by subsistence farming, where production and trade were not widespread for the market. However, after the development of commercial and industrial private property, first in Italy and later in other countries, carefully designed Roman private law was immediately restored and gained prestige[9].

It should be noted that the concept of private property has not been understood separately for a long time from an economic and legal point of view. Such an understanding usually began to be widely used in the late nineteenth and early twentieth centuries. Because it was at this time that economic relations began to be given a special legal status, and the need for legal regulation of the economy increased. This, in turn, has created a need to pay special attention to property and to determine the legal status of property belonging to individuals. The laws, which were adopted on the basis of modern, humane and universally recognized values, affirmed the guarantee of the rights and inviolability of the material goods belonging to individuals. It is these aspects that have led to the formation of different views and approaches in society. Now private property is interpreted as material benefits to the individual, and the right to private property is interpreted as the right of the individual to material goods. However, the formation of the

socialist system and the teachers' interpretation of private property as the basis of all vices in society, as made clear by K. Marx and F. Engels in the Communist Party Manifesto, As a result of "proving" private property as the main factor separating the capitalists from the proletariat, the "inverse understanding"[10] in the interpretation of private property, the understanding of who is interested in material wealth in what way, became the main criterion.

An example of this is the motto of the early days of the former Soviet Union: "The car is a vehicle, not a vehicle." This is because cars were considered private property in the former Soviet Union, not private property, and it is strictly forbidden to provide transportation services with it. Otherwise, according to the doctrine of socialism, cars belonging to citizens could be considered private property and not private property, and this would be an alien approach to the doctrine of socialism. Commenting on this doctrine, V.S. Nersisyan states that law and the state, according to the Marxist historical-materialist doctrine, are superstructures (forms) that require the basic (production, economic) relations of a private property society.

According to Marxism, legal relations (and law in general) arise from the economic relations of private property, serve these relations, are a necessary form of their expression and their existence. Therefore, the Marxist negative communist attitude towards private property extends to all superstructures (law, state, etc.) that give rise to the private ownership method of production[11].

For this reason, the separation of material wealth in terms of satisfying personal needs in kind or bringing income to the individual, and the complete restriction of property rights, was accepted as an unchangeable, absolute truth for former union legislators, law enforcers, and theorists. This has become ingrained in people's minds over time, and such an

interpretation is, unfortunately, still true today.

However, such an approach is based on the belief that this interpretation of private property contradicts existing laws and human values, that all should have equal opportunities and all should live in the same way, which will negatively affect the economic growth of any country and the living standards of its people. The world practice today shows that there is no need to give a special example or metaphor for this situation.

Therefore, it is now possible to define the concept of private property, not only to define the concept of private property in the legislation, but also to change the consciousness of the people and on this basis to direct the practice of applying the law on private property. It is necessary to observe the question of how to understand the concept of such private property and to determine the general and uniform approach of the legislation in this regard.

The modern continental legal system interprets property rights as an unlimited and indivisible right concentrated in the hands of one person.

Anglo-Saxon law has a system of property rights. This right, like medieval feudal law, allows a single plot of land (real estate) to have the right of ownership belonging to different persons at the same time. Full ownership applies only to movable property, while real property is recognized by various limited titles (titles, estates), because according to the traditional (feudal) notion, the "supreme owner" of land can only be sovereign. In addition to common law titles (estates in law), there are equitable estates in justice law, and they can also apply to different individuals at the same time[12].

Current legislation does not mean that the concept of private property is clearly and accurately expressed. In particular, Article 7 of the Law of the Republic of Uzbekistan No. 152-XII of October 31, 1990 "On Property in the Republic of Uzbekistan" is

entitled "Private property". the right to dispose of it."

That is, the concept of "private property" in this law means law. This, of course, shows that the category of private property directly means "right", such an approach is wrong from a legal point of view. Because the category of property is understood as a relation in jurisprudence. The concept of property does not directly mean law. Right is the authority that belongs to that person. Private property, therefore, should be understood as a social relation that usually means that a material good belongs to a relatively private person. In other words, private property should be understood as a legal connection, i.e. a relationship, as a result of the lawful appropriation of a material good by a private person. This relationship and connection, in turn, creates the powers of the individual, that is, the rights, and this in itself creates the concept of "private property rights."

The second sentence of Part 1 of Article 7 of this Law states that "Private property may be based on the personal participation of the owner in the production process and (or) the use of hired labor." This situation is seen as an attempt to self-identify the sources of private property formation. However, today's realities show that it does not fall into the category of private property, the legislation should identify the main factor, not the sources of private property, but the acquisition of private property in accordance with the law, and Article 207 (1) of the Civil Code. This situation allows us to conclude that in order to define and understand the concept of private property, it is important to define the interpretation of private property as a social relationship, rather than the source of its emergence.

From this point of view, it would be more correct to interpret the category of private property as the appropriation and belonging of a material good, the relationship between that person and the material good, and the attitude of other persons who are not entitled to this

relationship. Of course, in the Uzbek language, the attitude of "mine" and "yours" towards things, material goods, the attitude of "someone else's" should be an important social tool of the category of private property and property.

In this regard, Yu.K. It should be added to Tolstoy's opinion that property is divided into "yours" and "mine". Regardless of the degree of generalization and accumulation of property in any form and type of property, it can exist only if someone treats the conditions and products of production as "his" and someone as "foreign". From this point of view, any form of property is private"[13].

According to H.R. Rahmonkulov, the natural right to private property is the result of social relations between people based on existing traditions. In this sense, the right to private property can be described as a social phenomenon that arose naturally without the formation of the state. With the emergence of political power, the state focuses on the use of existing natural resources, the establishment of procedures for the development of production, the protection and guarantee of the rights of private property owners from illegal actions of others[14].

As recognized above, in the formation of the concept of private property, it is necessary to take the traditional category of "material wealth" as the main factor in jurisprudence. If we pay attention to this category, experts say that material wealth is the result of goods, works and services and other goods (food, clothing, housing, etc.) that have the ability to meet the material needs of citizens and legal entities and are in circulation[15].

Material wealth is the most important and primary basis of private property, the existence of which means the ownership of the individual and the full subjectivity of law. Therefore, it can be concluded that private property is the relationship between the owner and the thing, which determines the powers and capabilities of the owner, which means the complete domination of the owner in relation to

material goods, and any relationship of third parties to this relationship. As long as private property has its own object and subject as a social relation and social phenomenon, its object is the thing, and the subject is the owner.

It should be noted that the views and approaches to private property that are being formed today in national civilization, economy and practice are also unique. In particular, it is necessary to analyze the views on the relationship between the concepts of "state property", "non-state property", "private property", the definition of private property in different economic interpretations and approaches to the share of private property in "common mixed property". Indeed, private property, as in economic interpretations, should be based on subjectivity in social relations, not on property whose share in "common mixed property" exceeds 50%. Consequently, from a legal point of view, while property is a social relation, the form of property arises from belonging to the subject.

Conclusions and Suggestions

Furthermore, when property is classified into forms, it should be based on the general boundaries of publicity and privacy, rather than the ratio of the jurisdiction of the persons entitled to it. In other words, the generally accepted rule formed in the legal literature and in civilization is that anything that does not belong to the state is private. Therefore, separate property (regardless of its structure) and the most basic and decisive element of the property triad in relation to it the disposal of which is beyond the exclusive competence of the state, in economic terms, even if it is 1% non-state - private it can be concluded that the presence of the element will be private property. This, in turn, requires the introduction of a regime of private property rights in relation to the property of enterprises established with the participation of state and non-state

structures. This approach highlights the need to review the legislation on such structures on the basis of the private property rights regime and to make appropriate additions and changes.

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