



The Content of the Institution of Civil–Legal Protection of Honor, Dignity and Reputation in Uzbekistan

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<http://dx.doi.org/10.18415/ijmmu.v10i10.5221>

Abstract

In the article, the author analyzes the legal aspects of protecting the honor and dignity of a person in civil law. In particular, issues related to the protection of personal property rights in theory and practice, justifying the existence of controversial situations in the regulation of honor, dignity, business reputation as a legal category. The article provides an analysis of the existence of three conditions for the protection of honor, dignity and business reputation, and based on the relevant conclusions, offers are made.

Keywords: *Civil Rights; Honor; Dignity; Business Reputation; Personal Property Relations; Intangible Benefits; Legal Protection; Legal Regulation; Law; Norm*

Introduction

Every citizen has the right to protect his rights and freedoms by any means not prohibited by law, and judicial protection is guaranteed by the Constitution of the Republic of Uzbekistan.

Honor and dignity are very broad and rich concepts, which are deeply dialectical in content. They are interpreted as special categories in philosophy, psychology, ethics and law. In law, it is considered as social interests protected by law [1].

Honor, dignity and business reputation, along with other intangible benefits, in accordance with the Civil Code of the Republic of Uzbekistan and other laws, in the cases and in the manner specified in them, as well as in such cases and the nature of the violated intangible right and the nature of the consequences of this violation occurs depending on the level.

In its essence, an immaterial benefit is, first of all, a certain complex socially beneficial feature of a legal subject, the main content and purpose of which is to individualize a natural or legal person who is the subject of legal relations, as well as to protect him from the external influence of public relations of the state and its bodies and other subjects.

In turn, property rights act as a good intermediary in relations arising from private property relations, including its acquisition and protection. Non-property relations arise on the basis of life, health, comfortable environment or intangible benefits (name, inviolability of residence, etc.) that are inherent to any person from birth.

The lack of a clear legal definition of the concepts of honor, dignity and business reputation creates specific difficulties in the process of applying the law and protecting these rights.

According to A. Anisimov, honor is a person's self-evaluation based on the society's evaluation of the individual. Honor means that a person feels his value as a human being, and it embodies such concepts as personal honor, professional honor, national honor.

Honor, value, and reputation for hard work are among the natural rights of human rights. They belong to a person by birth, and no one has the right to discriminate against him. In particular, according to Article 1 of the Universal Declaration of Human Rights, all people are born free and equal in their dignity and rights. According to Article 5 of the Declaration, no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

The Constitution of the Republic of Uzbekistan defines more than ten rules for the protection of human interests, especially guarantees the protection of his honor and dignity. In particular, in the preamble of the Constitution, it is specifically noted that the goal of establishing a state in which a person, his life, freedom, honor and dignity is considered the highest value.

Article 13 states that democracy in the Republic of Uzbekistan is based on universal principles, according to which a person's life, freedom, honor, dignity and other inalienable rights are considered the highest value, and all of them are protected by the Constitution and laws.

In addition, Article 26 states that human dignity and dignity are inviolable, that nothing can be used as a basis for discrimination, and that no one can be subjected to torture, violence, or other cruel, inhuman or degrading treatment or punishment. Article 31 of our Constitution stipulates that everyone has the right to privacy, to have personal and family secrets, to protect their honor and dignity, and according to Article 60, citizens have the right to comply with the Constitution and laws, the rights and freedoms of other people, the obligation to respect honor and dignity is noted. In addition to this, our Main law provides special norms for the protection of the honor and dignity of certain professions, in particular, lawyers and teachers. Article 42 stipulates that the lawyer, his honor, dignity and professional activity are under the protection of the state and are protected by law. Article 52 states that the state protects the honor and dignity of teachers, their social and material well-being, and their professional growth. installed.

Legal protection of intangible benefits in civil law has its own characteristics. Legal protection is a type of private protection, which is an activity carried out by an interested person without the support of the state in cases of self-defense [2].

Due to the nature of honor, dignity and business reputation as personal intangible goods, their protection can only be done in certain ways [3]. Special methods of protection of honor, dignity and business reputation include rejection, although, as noted in the legal literature, this is by its nature a modification of the general method of protection, such as the elimination of illegal actions and the restoration of the situation that existed before the offense.

The next condition necessary for the protection of honor, dignity and business reputation is that the information being distributed has a defamatory character. In particular, in such information, a citizen or a legal entity has violated the applicable legal documents, committed dishonest acts, wrongness of personal, public or political life, immoral actions, dishonesty in the implementation of production, economic and entrepreneurial activities, business ethics or the honor of a citizen and other information

that lowers the dignity or trustworthiness of a citizen or legal entity may be allegations of violation of legal documents [4].

At the same time, it should be recognized that the legal regulation of legal protection of honor, dignity and reputation has many aspects. Many legal subjects do not even think about how serious the consequences of ignoring the already existing norms of this institution can be for them [5].

The accumulated experience in solving the problem of legal regulation of legal protection of honor, dignity and business reputation allows to create an effective legal framework that regulates rights and freedoms, as well as liability for their abuse. The implementation of this task requires the use of special technologies. It is necessary to create a legislative framework for specific areas that do not violate the constitutional rights of citizens.

Article 100 of the Civil Code of The Republic of Uzbekistan stipulates the protection of honor, dignity and professional reputation, according to which a citizen can claim information that harms his honor, dignity or professional reputation, provided that the person who disseminated such information cannot prove that it is true, has the right to demand rejection through the court. At the request of interested parties, it is allowed to protect the honor and dignity of a citizen even after his death.

As defined in this article, if the information damaging the honor, dignity or business reputation of a citizen is distributed in the mass media, a denial must be given in the same mass media. If such information is found in a document received from the organization, such a document must be replaced or revoked, and in other cases, the procedure for refutation shall be determined by the court. It should be noted separately that the basis for considering the case in court is that the claimant's information published in the mass media, which tarnishes his honor and dignity, is untrue and tarnishes his dignity.

Article 34 of the Law of the Republic of Uzbekistan "On Mass Media" strengthens the norms regarding the right to object and reply. According to it, a legal entity or an individual has the right to demand from the editorial office a rebuttal for information published in the mass media, which does not correspond to the truth and insults his honor and dignity or business reputation.

Legal entities and individuals whose rights and legal interests have been violated due to the published material have the right to publish a rebuttal or a response in this mass media. A rebuttal or reply must be published under a special column on the same page where the material is printed. Refusal or answer must be published in newspapers within one month from the date of their receipt, and in other periodicals in the next issue. Refusal or answer must be published in newspapers within one month from the date of their receipt, and in other periodicals in the next issue.

The denial or response received by the editors of television, radio, video, newsreel programs and other electronic forms of periodical distribution of mass information will be broadcast in the same program or series no later than one month from the date of receipt.

If the volume and time of publication of a rebuttal or response may harm the activity of the mass media, reasonable editing of the text is allowed in agreement with the source of information or the author.

If the mass media refuses to publish a rebuttal or answer or violates the deadline for publishing them, a legal entity or an individual has the right to apply to the court.

According to part 2 of Article 1021 of the Civil Code of The Republic of Uzbekistan, if the damage was caused due to the dissemination of information insulting the dignity and business reputation, it should be assumed that the moral damage will be compensated regardless of the fault of the person who transmitted it.

When determining the amount of moral (non–property) damage, the court shall take into account the content and essence of the article that violated the honor and dignity of a citizen, the content and essence of the article, the mass media that published untrue information or the degree of guilt of a specific person, taking into account other noteworthy circumstances related to this article takes.

In accordance with Article 1022 of the Civil Code of The Republic of Uzbekistan, when determining the amount of compensation for moral damage, the courts must take into account the subjective assessment of the severity of the moral damage caused to the victim, as well as the nature of objective data confirming the level of physical and mental suffering of the plaintiff, the circle in which insulting false information was distributed, and other relevant circumstances.

Most importantly, according to Article 163 of the Civil Code of the Republic of Uzbekistan, the statute of limitations does not apply to requests to deny information that harms honor, dignity and business reputation.

Based on the study of legal literature, in particular, it should be noted that currently, in the issue related to business reputation, it is limited to the protection of the rights of the subjects of business activity, the concept of business reputation or “civil good name” related to individuals and professions and the stage of scientific research of its content has not yet been completed. At the same time, the lack of terminological unity in the field of legal protection of the honor and dignity of a person in the current legislation seriously complicates the practical implementation of this right [6].

The current state of both general theoretical and field research on this issue is characterized by different approaches.

The right to a good name is a subjective civil right that individualizes a citizen in society and covers such a state of the citizen: to call oneself by the name given in the bodies of registration of civil status documents in all aspects of social life; the right to demand from other persons not to violate it; the right to change the name, the patronymic, or the right to demand the termination of illegal use of the surname, as well as the patronymic.

Article 20 of the Civil Code of The Republic of Uzbekistan defines the procedure for protecting this right. In particular, the person whose right to live under his name is contested or whose interests are violated due to the illegal use of his name may demand the violator to stop such actions and give a denial.

If the interests are being violated intentionally, the injured person can demand additional damages. In order to compensate for the damage, it may be required to provide the income of the person who violated the interest. In the case of intentional violation of interests, the victim has the right to claim compensation for moral damages. A person who is not the owner of the name or personal honor, but who is interested in it due to his family status, can also make demands for the cessation or denial of the above–mentioned actions. This person can try to fulfill the requirements aimed at protecting the name and honor of another person even after his death. Claims for damage caused by defamation of name and honor are not recognized posthumously.

It is correct to use the term “business reputation” in relation to legal entities, including non–profit organizations engaged in entrepreneurial activities, individual entrepreneurs. In relation to other natural persons, the term “good name” is more commonly used because it has a very broad meaning, which also includes their professional skills and relationships related to protection.

The peculiarity of the protection of honor, dignity and professional reputation is that, according to civil law, the intangible benefits in question must be protected from any illegal attacks by third parties. In this case, individuals and legal entities can be third parties.

The basis for the emergence of the obligation to refuse is the illegal behavior expressed in the distribution of information that is not true and derogatory to their honor, dignity or business reputation against a citizen or commercial organization.

Business reputation is determined by the level of professional qualification, and for a legal entity, it is determined by the indicators of production and other economic activities in accordance with its legal status within the framework of market relations. The meaning of the term prestige corresponds to the definition of honor in many respects. However, the first mainly reflects professional, entrepreneurial qualities, and the second acquires a more moral meaning.

Eliminating the damage caused by the spread of false information, untrue information that harms the honor, dignity and professional reputation of a citizen should be considered as a function of this legal relationship. The first condition for the emergence of any legal fact that gives rise to civil legal relations is the dissemination of information that discredits the entities in question.

Taking into account the separate elements of the analyzed legal relationship, based on the content of Article 100 of the Civil Code of The Republic of Uzbekistan, as well as in the practice and theory of law enforcement, civil legal responsibility for the violation of honor, dignity and business reputation arises when three conditions are met at the same time: first, existence of the fact of distribution of such information; secondly, that this information has a defamatory character; thirdly, their untruthfulness.

Defense for the protection of honor, dignity or business reputation is the basis for the emergence of legal relations, and it is required that these conditions be the sum of these conditions. It should also be taken into account that an additional condition can be considered as the willingness of the interested party to file a lawsuit. If at least one of these circumstances is absent, the claim will not be satisfied by the court.

According to the content of Articles 1021–1022 of the Civil Code of the Republic of Uzbekistan, moral damage can be caused only to a natural person, it is impossible to cause physical and moral suffering to a legal person.

Thus, the basis for the emergence of legal relations for the protection of honor, expensive and business reputation is the dissemination of reputational information that does not correspond to complex legal facts.

A number of conditions are necessary for the right to protection to arise, if the information is distributed among unknown persons, other persons have become familiar with such information, and the information must not be true.

The most common way to damage a business's reputation is through unsolicited advertising, which involves, among other things, civil liability. The law entitles any victim, both physical and legal entity, to compensation for property and non-property damage.

Nothing prevents the responsible person from apologizing privately or publicly. The form of personal apology for the protection of honor and dignity, despite its intangible form, is still acceptable in civil law, because it restores the mental balance of the victim to a certain extent. There is a need for the institution of defamation in the civil law, which will allow comprehensive protection of rights such as honor, dignity and professional reputation, including in cases of dissemination of defamatory information that does not correspond to the truth. At the same time, it is important to develop legal criteria for the disclosure of information that may damage the reputation of another person from the point of view of the feasibility of the existence of this institution.

According to paragraph 8 of the decision No. 5 of the Plenum of the Supreme Court of the Republic of Uzbekistan dated December 19, 1992 “On the application of laws on the protection of honor, dignity and business reputation of citizens and organizations in judicial practice”, the honor and dignity of legal or natural persons and disseminating information that harms the reputation of the business means publishing it in mass media, describing it in service descriptions, speaking in front of many people, in applications written in the name of officials, or in other ways, including oral communication to several persons or to one person. Communicating such information only to the person concerned is not considered dissemination. A citizen who has been told defamatory information, as well as slandered, has the right to apply to the appropriate authorities to bring the person who spread such information to criminal responsibility according to Articles 139 and 140 of the Criminal Code of the Republic of Uzbekistan or to administrative responsibility according to Articles 40 and 41 of the Code of Administrative Responsibility of the Republic of Uzbekistan.

In paragraph 10 of the Plenum Decision of the Supreme Court, if the application requires a denial of the information distributed in the mass media, taking into account the involvement of the author and the relevant mass media organization as defendants, it is necessary to identify the relevant defendants in the case in order to prepare the case for hearing at the court session. According to Article 40 of the Law of the Republic of Uzbekistan “On Mass Media”, in cases where the information is presented in official reports, the court may also hold the person who initially disseminated the false information as responsible.

The persons who signed it, as well as the company, institution or organization that provided the description, are responsible for the claims of rejection of the defamatory information specified in the description of the service. If defamatory information is published in multi-copy newspapers that do not have the capacity of wall or civil procedural law, the organization that is considered the body of the newspaper, as well as the author of the published article, is responsible.

At the court session, the following circumstances should be clarified in all respects: whether or not the alleged, denied information was distributed; that this information did not damage the honor and value of a legal or physical person and business reputation; whether this information is true or not.

According to Article 100 of the Civil Code of The Republic of Uzbekistan, the defendant is responsible for proving the truthfulness of the distributed information. If the claim is satisfied, the court must specify the method of refutation of untrue information in the conclusion of the decision. The rebuttal should be published in the newspaper or other public periodical that published the information contradicting this fact. The court shall state the text of the objection to be issued in the decision and indicate the period for its publication.

If untrue information is expressed in a document issued by an organization, the court must impose the obligation to replace such a document on that organization in its decision. Based on the specific circumstances of each case, the court may impose an obligation on the defendant to apologize in front of the public, to announce at the meeting that the distributed information is incorrect, and to write a rebuttal to the organization where the information defaming the plaintiff was reported. An attack on a person’s honor and dignity, as well as reputation, traditionally includes two elements. In the former, illegal acts are insults, and in the latter, defamation.

The main difference between defamation and dissemination of information is that defamatory information is communicated without “dissemination”, for example, a letter containing offensive elements, in particular obscene expressions or obscene gestures, etc. That is, if the offending information was delivered without being distributed to the person who committed the offense, in the case of civil liability, it will cause administrative liability in the form of a fine, rather than compensation for moral damage.

It should be noted that “defamatory” information and defamatory information are not the same thing. Defamatory information is intended to defame and disparage one’s dignity, but unlike defamatory information, it does not contain any sign of falsehood. The peculiarity of the civil proceedings in this category of cases is that the burden of proving the truth of the information disclosed is on the defendant. In this case, the claimant must prove that this information was actually distributed by the person or organization against which the claim was filed, that is, the claimant is not required to prove that the information distributed to him was untrue.

It should be noted that in this field, i.e., protection of human rights to honor and dignity in the mass media, the legislation of Uzbekistan provides for all the necessary conditions, including the mechanism for the implementation of this right. It is necessary not to ignore the fact that information considered offensive to one person may not be accepted in the same way by another person.

In the legislation, all words and expressions that are offensive to human dignity and dignity cannot be represented by a separate list, so the result of the dispute in this regard is a way for the parties, first of all, the defendant, to prove that a certain word or phrase is not offensive at all, but easily turns into a literary or a compliment or will depend on the inner confidence of the judge. In general, if the judge considers the information to be defamatory, the dispute will be resolved in favor of the plaintiff. The issue of compensation for moral damage has certain difficulties in judicial practice due to the fact that it is very problematic to prove the occurrence of moral suffering caused by the dissemination of certain types of information.

The protection of honor, dignity or business reputation is the legal factual basis for the emergence of legal relations and is the relevant legal facts, as in other civil legal relations. Taking into account that the task of these legal relations is to eliminate the damage caused by the dissemination of false information, untrue information that denigrates the honor, dignity and business reputation of a citizen, we can come to the following conclusion: the necessary legal fact is the conclusion that its dissemination (as an illegal act). In this case, the single act of harm—the wrongdoing of the perpetrator—is divided into its constituent elements.

As a conclusion, it should be noted that in the process of studying the concept and content of intangible benefits such as honor, dignity and business reputation, it was found that they act as social and moral interests in the field of social relations. The essence of the protection of the honor, dignity and business reputation of the civil right is imposed on the victim, who has the right to demand rejection, with the obligation related to the emergence and subsequent implementation of protective legal relations. Thus, honor, dignity and professional reputation can be considered as intangible benefits and special subjective rights protected by law. The specificity of these rights allowed a number of authors to conclude that they are part of the content of civil legal capacity or its element.

Based on the above analysis, we found it permissible to draw the following conclusions: first of all, despite the constant updating and improvement of the civil legislation, honor, dignity and business reputation are among the problems that await their solution both in the normative and in the practice of applying the law; secondly, the legislation does not provide a legal definition of such concepts as honor, dignity, reputation, and dissemination of untrue information. This, in turn, shows that there is no clear holistic approach to the protection of honor and dignity in judicial practice. Courts are required to determine whether honor and dignity are valued on a case-by-case basis; thirdly, it is necessary to mention that scientific researches are not sufficiently studied in this regard. The lack of consensus among legal scholars and the insufficiently developed definition of these concepts. At the same time, the weakness of the legal nature of these concepts, their philosophical, moral and evaluative nature also shows that their legal definition does not exist.

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