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**THE RIGHT TO HEALTH PROTECTION IN UZBEKISTAN:
IMPLEMENTATION AND LEGAL SUPPORT IN THE CONTEXT OF A PANDEMIC
OF INFECTIOUS DISEASES**

Abstract

The article is devoted to the analysis and assessment of the state of legal support for human health protection in the context of the spread of coronavirus infection in Uzbekistan. The content of state policy and organizational and legal measures in the field of health protection are considered. Legal measures aimed at increasing the effectiveness of legislation in the field of human health protection are characterized, the problems of strengthening legal measures to protect and ensure the right to health are considered. The right to health protection is considered both in the context of the legal foundations of this human right in the context of the coronavirus pandemic, and legal measures to combat offenses in this area, as well as ensuring human rights in the fight against the pandemic.

Key words: health, the right to health protection, legal regulation, medical legislation, healthcare system, pandemic.

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ПРАВО НА ОХРАНУ ЗДОРОВЬЯ В УЗБЕКИСТАНЕ: РЕАЛИЗАЦИЯ И ПРАВОВОЕ ОБЕСПЕЧЕНИЕ В УСЛОВИЯХ ПАНДЕМИИ ИНФЕКЦИОННЫХ ЗАБОЛЕВАНИЙ

Аннотация

Статья посвящена анализу и оценке состояния правового обеспечения охраны здоровья населения в условиях распространения коронавирусной инфекции в Узбекистане. Рассмотрено содержание государственной политики и организационно-правовых мер в области охраны здоровья. Охарактеризованы правовые меры, направленные на повышение эффективности законодательства в области охраны здоровья человека, рассмотрены проблемы усиления правовых мер по защите и обеспечению права на здоровье. Право на охрану здоровья рассматривается как в контексте правовых основ этого права человека в условиях пандемии коронавируса, так и правовых мер по борьбе с правонарушениями в этой сфере, а также обеспечения прав человека в борьбе с пандемией.

Ключевые слова: здоровье, право на охрану здоровья, правовое регулирование, медицинское законодательство, система здравоохранения, пандемия.

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ЎЗБЕКСТАНДАҒЫ ДЕНСАУЛЫҚ САҚТАУ ҚҰҚЫҒЫ: ЖҰҚПАЛЫ АУРУЛАР ПАНДЕМИЯСЫ ЖАҒДАЙЫНДА ІСКЕ АСЫРУ ЖӘНЕ ҚҰҚЫҚТЫҚ ҚАМТАМАСЫЗ ЕТУ

Аңдатпа

Мақала Ўзбекстанда коронавирустық инфекцияның таралуы жағдайында халықтың денсаулығын қорғауды құқықтық қамтамасыз ету жағдайын талдауға және бағалауға арналған. Денсаулық сақтау саласындағы мемлекеттік саясат пен ұйымдық-құқықтық шаралардың мазмұны қаралды. Адам денсаулығын қорғау саласындағы заңнаманың тиімділігін арттыруға бағытталған құқықтық шаралар сипатталды, денсаулыққа құқықты қорғау және қамтамасыз ету жөніндегі құқықтық шараларды күшейту мәселелері қаралды. Денсаулық сақтау құқығы коронавирустық пандемия жағдайында осы адам құқығының құқықтық негіздері, сондай-ақ осы саладағы құқық бұзушылықтармен күресудің құқықтық шаралары, сондай-ақ пандемиямен күресте адам құқықтарын қамтамасыз ету аясында қарастырылады.

Түйін сөздер: денсаулық, денсаулық сақтау құқығы, құқықтық реттеу, медициналық заңнама, денсаулық сақтау жүйесі, пандемия.

General provisions

The main provisions of the work follow from the set goal of scientific research and relate to the following aspects:

A comprehensive analysis of the problem made it possible to identify the main directions of the relevant health policy in Uzbekistan. The development of new technologies in medicine, in particular in the field of human reproduction (genetic engineering, biomedicine, artificial insemination, surrogacy, etc.) requires understanding and adjusting the current legislation in the field of medicine.

A developed system of legislation in the field of health care in Uzbekistan was noted, which made it possible to predict possible areas for its improvement, one of which is proposed codification.

Important recommendations have been formulated on the implementation and improvement of health legislation, as well as strengthening law enforcement practice, solving real problems in the health sector.

Various state programs in the field of health care have been thoroughly analyzed, in particular, the effectiveness of their implementation during a pandemic, which revealed shortcomings in the level of provision of medical care, the quality and timeliness of medical services, and the situation with the provision of the industry with modern medical equipment.

The legal conditions for bringing to legal responsibility for unfair performance by medical workers of their professional duties were considered.

Ways have been proposed to ensure access of the population to full-fledged high-quality medical care during the convergence of the current Uzbek legislation on health care and international legal norms.

Introduction

Although the right to health care is not directly indicated in the text of the Constitution of Uzbekistan, its provision is indirectly indicated by its Art. 40, which reads: Everyone shall have the right to receive skilled medical care. However, before mentioned constitutional norm has not yet been properly embodied and concretized in the country's legislative system; certain areas of relations developing in the field of health protection are not regulated at all by laws or are regulated by laws of ministries and departments. Although the issues of human health protection are generally regulated in the legislation of the country, however, there are still many problems and shortcomings that need to be eliminated.

These circumstances require their study and scientific research, it is necessary to intensify not only scientific research on these issues, but also law-making activities, the result of which should be the formation of a modern, effective and adequate legal basis for ensuring the right to health care.

Within the framework of this goal, the study sets the following tasks:

- consideration and characteristics of the legal framework and mechanism for ensuring human health protection in the context of a coronavirus pandemic;
- analysis of legal measures to combat offenses in a pandemic;
- studying the practice of using the recommendations of international bodies in the legal regulation of the fight against the pandemic;
- development of recommendations for improving the legal framework for protecting human health in the context of the spread of coronavirus infection in Uzbekistan.

Consideration of these issues will to some extent contribute to an objective assessment of the state and directions of development of the system of legal protection of human health in Uzbekistan.

The hypothesis of this article can be formulated as follows: in Uzbekistan the level of real provision of the right to health care is dependent on the level of efficiency of the legal mechanism functioning in this area. Effective provision of this right implies the timely adoption by the state of legal acts aimed at the smooth functioning and development of the healthcare system. Success in countering the pandemic depends not only on the effectiveness of the healthcare system, but also on the quality of the legal regulation of relations related to the realization of the human right to health care.

Materials and methods

The research methodology is aimed at a comprehensive analysis of the current state of the legal system for protecting the health of the population of Uzbekistan in the context of a pandemic of infectious diseases. The choice of research methods is conditioned by the need for a comprehensive analysis and assessment of the state of the mechanism and features of the legal system for protecting the health of the population of Uzbekistan. In the course of the research, a comprehensive method was applied within the framework of the socio-constructivist paradigm of focusing on the issues of transformation of the value basis of public service. At the initial stage, the theoretical foundations of the legal regulation of the healthcare system in an emergency situation and scenarios of its

transformation in modern conditions were studied. The analysis of approaches based on the study of scientific literature allowed us to formulate key research questions and hypotheses. Documentary analysis as the main method of data collection was used at the first stage of the study and is focused on the study and interpretation of primary sources - international legal acts, acts of national law of the Republic of Uzbekistan and other countries of the world regulating public relations in the healthcare system in the context of the spread of coronavirus infection. This method has been chosen as the main method of data collection, as it allows for a deep investigation of primary sources, provides a qualitative justification for the conclusions of the study, and helps identify gaps and contradictions in regulatory regulation. In the process of working on the article, general and particular methods of scientific cognition were used: dialectical, logical, structural-functional, formal-legal, comparative-legal and others. This approach allowed us to consider the issues presented in the development, from general to particular and vice versa, through a critical reflection and comparative analysis of the norms of the current legislation of the Republic, identifying inaccuracies, gaps and contradictions in it, as well as other shortcomings. For this purpose, the norms of Laws and other regulatory legal acts of the Republic of Uzbekistan in this area were studied. In the course of the research, secondary sources were studied - the works of Uzbek and foreign scientists [1-13]. At the final stage, all the data obtained, the analysis and interpretations were systematized. The use of a set of scientific research methods and their combination at each stage of the study allowed us to obtain a holistic view of the problems and opportunities in the healthcare system of the Republic of Uzbekistan.

Results and discussion

Legal basis for the protection of human health in the context of the coronavirus pandemic

It is known that a person's health is his complete physical and mental well-being. It is the most important good, the basis for the sustainable development of society, therefore it is a priority object of constitutional and legal protection. "Medical care is one of the most important factors in ensuring the interests of a person" [14]. The essence of this right is that it is inalienable, belongs to a person from birth, and its provision is the most important condition for the life of modern society. Health protection consists in realizing the responsibility of the state for the health of its citizens, taking care of physical and psychological health. Human life and health, being the highest values that determine the essence of all other values and benefits in society.

Art. 40 of the Constitution of the Republic of Uzbekistan, as already noted, secured the right of everyone to qualified medical care. However, the content of the term "qualified medical care" is not disclosed either in the Constitution or in other legislative acts. From their content it is not clear how to assess the degree of qualification of such assistance, what are its criteria.

In my opinion, the right to health care is much broader than the above right enshrined in constitutional norm. In addition to the right to health care itself, it includes a number of other rights. Therefore, we consider it necessary to clarify in Art. 40 of the Constitution, the concept of the right to health, reflecting the content and components of this constitutional right. It is necessary to formulate in more detail the constitutional principles and foundations for ensuring this right, as well as the functioning of the country's healthcare system.

In view of the foregoing, we believe it is necessary to eliminate the constitutional gap by setting out this article in the context of ensuring the right to health protection by the state. Here it is necessary to indicate at what level, what quality and how the state guarantees a person his right to health, what is the minimum level of medical care.

Enshrining the right to health care at the constitutional level will ensure that this right is given paramount importance in the system of human rights and freedoms, recognizing it as the most important social value that forms the basis of a modern state. In addition, it will impose an objective obligation on the state to ensure this right in practice, since it will require the government to implement appropriate policies.

It does not disclose the content of this right, since it only fixes provisions on the equality of people in ensuring their right to health, as well as their protection from discrimination, regardless of the forms of diseases. We consider it necessary to specify the provisions of this article, which is of decisive importance for the entire law. It is necessary to consolidate as the main goal of the health system the protection of the health of the population and each person, as well as the responsibility of the state to ensure this right.

The legal protection of somatic and other rights of the new generation associated with the development of modern technologies in the field of genetic engineering, medicine, biomedicine, etc. is not provided. Legislation on reproductive technologies (artificial insemination, surrogacy, etc.), medical sterilization, cloning, the right to free reproductive choice is practically silent.

Of course, not everything is unambiguous here, so you need to carefully and thoughtfully approach the legal regulation of these issues. So, some experts directly warn: "no good reasons have been found to encourage human reproductive cloning"[15] Foreign lawyers are also actively discussing the legal problems of euthanasia as the right to voluntary retirement. Of course, in addition to purely legal, there are many other problems here – social, moral, spiritual, religious, which also need to be solved. Taking into account foreign experience and trends in strengthening the legal protection of human rights, today it is necessary to comprehensively consider the need for systemic regulation of relations in this area in Uzbekistan.

The closeness of medical statistics and the weakness of independent expert institutions capable of objectively assessing the quality of healthcare have not yet been overcome. Therefore, in recent years, the state has been taking active measures to form an effective and affordable health care system capable of ensuring the realization of the human right to health protection.

Today, Uzbekistan has formed the legal basis of functioning healthcare system. First of all, it should be noted the laws "On the protection of the health of citizens", "On the sanitary and epidemiological well-being of the population", "On the prevention of iodine deficiency diseases", "On medicines and pharmaceutical activity" and others. A number of acts of the President and the Government of the state have been adopted on their basis.

With the Decree of the President of the Republic of Uzbekistan dated May 5, 2021 No. UP-6221 "On the consistent continuation of reforms in the healthcare system and the creation of the necessary conditions to increase the potential of medical workers" Fund for support and attraction of gifted and qualified medical specialists to medical institutions, also, the allocation of 20 thousand staff of paramedical workers to family medical centers and family clinics was created. Under the Sanitary and Epidemiological Service, a National Reference Laboratory has been established, and measures have been identified to strengthen the material and technical base of laboratory complexes. As you can see, significant steps are being taken to improve the efficiency of the health care system of the republic, and the establishment of an appropriate legal and regulatory framework.

As a result of the implementation of the adopted acts, 798 rural family polyclinics were created, and the Ambulance Development Fund was established. The obligation of the state to provide 18 types of basic foodstuffs and hygiene products to lonely elderly and persons with disabilities free of charge, to pay salaries to employees of educational, sports and cultural institutions that have suspended their activities has been established. One-time financial assistance was provided to more than 1.7 million people included in the lists of those in need of financial assistance and support. In the last five years alone, the amount of funds allocated to provide hospitals and emergency medical facilities with medicines and medical products has increased 12 times.

In general, the analysis of legal acts shows that there is a process of intensification and improvement of the quality of legal support in this area. Today there is a situation when the array of legislation has reached a critically high level. It should be regulated on a methodological basis that would eliminate internal contradictions in the legislation. In my opinion, this set of legal acts lacks consistency, it is necessary to unify the approach to regulating relations in the field of health protection, as well as their terminological composition, and eliminate some gaps.

Thus, a gap in the law "On the Protection of citizens' health" is the absence of an indication of the subject of this law. In Art. 2, the main tasks of the legislation on health protection include "the formation of a healthy lifestyle of citizens". In my opinion, it is necessary to formulate this task in the following way – the creation of organizational and legal prerequisites for the formation of a healthy lifestyle, since the law itself cannot form a healthy lifestyle. There is a discrepancy in terminology: for example, such terms as "emergency medical care", "first medical aid", "urgent medical aid" are used, but their definitions are not given. The law does not contain a glossary, which is necessary here. It is silent about the possibility and procedure for restricting the right to health protection, for example, in a pandemic. These shortcomings of the law significantly affect the level of protection of this human right.

Sharing the latter position, consider it justified to take into account the socio-physical well-being of a person as a whole when determining this category. Today, this position is gaining more and more supporters [16]. So, the right to health” corresponds to the obligation of the state to pursue policies and implement measures to ensure the physical health and social well-being of a person.

At the same time, I do not agree with the position according to which “health is a state of life, it cannot be given, and it can be taken away or undermined by other people only indirectly. There is no point in proclaiming the right to health, just as there is no point in proclaiming the right of a person to wisdom or courage. Health cannot be given, but it can be easily taken away or undermined as a result of the illegal actions (or inactions) of the perpetrators. In our opinion, it should be considered a blessing, a value that needs to be provided and protected, as well as implemented in practice. The legal means of such implementation is the legislative consolidation of this right, the operation of the legal mechanism for its protection and the corresponding guarantees.

Codification of a huge number of legal norms regulating relations in the field of health protection will allow, firstly, to reduce the volume of legal acts, secondly, to eliminate collisions and gaps, thirdly, to unify terminology and approaches to regulating this area, and fourthly, to ensure understanding of the legislation by both citizens and law enforcement officers, to help eliminate its ambivalent interpretation.

As we can see, in Uzbekistan today, the task of legal provision of the right to health protection is not yet being solved at the proper level, there are many problems and shortcomings that need to be solved. At the beginning of the pandemic, the country's healthcare system, according to the assessment of the President of Uzbekistan Sh. Mirziyoyev, was in a state of crisis. It is no coincidence that 2021 has been declared the Year of Youth Support and Public Health Promotion, a legal act has been adopted approving the relevant state program.

Currently, a sober assessment of the effectiveness of the legal measures taken is needed. Let's briefly consider these measures. Even before the official announcement of the pandemic by WHO, the President of Uzbekistan adopted an act on measures to combat coronavirus, and thus laid the organizational basis for activities in this area. 11 medical institutions, 97 sanatoriums, camps and dormitories have been quarantined. Mass religious ceremonies are prohibited. Until the epidemiological situation stabilizes, it was decided to transfer pensions only to cards.

Thus, a rigid model was chosen to combat the spread of the virus. Legal acts aimed at providing social protection and material support for medical personnel were adopted. Foreign experts, who got acquainted with the measures taken, noted that, despite tough measures, the authorities integrated elements of work with civil society, interacting with the mahalla in this matter [17].

In addition, the legal acts of the President and the Cabinet of Ministers of Uzbekistan have identified priority areas for reforming the healthcare system, including the creation of a high-tech basis for health protection and combating the pandemic, digitalization of the healthcare sector and the provision of medical services. The implementation of measures for standardization of medical services, the formation of an effective system of state guarantees, the establishment of state preferences in the production of medicines and medical products, accelerated training and retraining of personnel in the field of healthcare, promotion of a healthy lifestyle, etc. has begun. As the mission

of the International Monetary Fund noted, "despite the fact that in the first half of 2020 the pandemic dealt a severe blow to the economy and became a severe test, the recession was mitigated thanks to decisive and timely measures to limit its spread and provide support" [18].

Legal measures to combat lawbreaking in a pandemic

The fixation in the Constitution and laws of the human right to health care does not in itself mean its automatic implementation, since the actual implementation of this right depends on many different factors, including the activities of the law enforcement system. The process of realization of any right requires its legal support. Here, the legal form and methods of its implementation are very important, as well as the legal mechanism and means of combating violations of this right. Like any other legislation, the implementation of acts in the field of the right to health care needs such a tool as legal liability for violation of the requirements of laws. Based on this, it is advisable to analyse legal measures aimed at ensuring the right to health protection in the context of the coronavirus pandemic.

Legal measures arising from states' obligations in the area of the right to health include both negative and positive obligations. At the same time, if the former requires the state to refrain from any actions that violate the law, the latter require active actions of states to ensure the right in question.

The Parliament of the Republic of Uzbekistan adopted the Law "On Amendments and Additions to the Criminal, Criminal Procedural Codes of the Republic of Uzbekistan and the Code of Administrative Responsibility". The law introduced amendments and additions aimed at preventing the spread of panic among the population, ensuring public safety, creating conditions for normal life and strengthening responsibility.

There is a fine for being in public places without a mask. Also, non-compliance with the internal regulations of a medical institution and non-compliance without valid reasons with the requirements for medical examination and treatment, as well as other legal requirements of state sanitary supervision bodies, liability in the form of a fine is established. The criminalization of liability for violations of quarantine regulations has yielded results.

At the same time, it should be noted the absence in this code (in its chapter V "Administrative responsibility for offenses that infringe on the rights and freedoms of citizens" or chapter VI. "Administrative responsibility for offenses in the field of public health protection") of a norm providing for administrative responsibility for impeding the realization of the right to health care. I consider this situation a serious barrier to the full implementation of the right in question. Here you can point to the presence of a number of norms that establish liability for violations of other human rights and freedoms - Art. 44. Unreasonable refusal to familiarize with documents, Art. 51¹. Violation of legislation on the rights of persons with disabilities, art. 51⁴. Violation of the rights of a candidate, authorized representative, observer or authorized representative of a political party. The inclusion of the relevant norm will serve to ensure the realization of the right to health protection.

An important guarantee of the right to health protection is a person's awareness of the healthcare sector, forms and methods of exercising this right, etc. Therefore, it is advisable to enshrine in the legislation a rule according to which the concealment by officials of facts and circumstances that pose a threat to the life and health of people entails appropriate legal liability. Another aspect is to establish the responsibility of medical workers for the quality of medical care provided, as well as activities to ensure the prevention, diagnosis and treatment of diseases, the preservation and promotion of public health.

Legal measures for the protection of health are not limited to the actual medical activities. They also concern sanitary-epidemiological and environmental well-being, health insurance, pharmaceuticals, surrogate motherhood, physical education and sports, i.e. all of which, in one way or another, are connected with the protection of health.

It should also be noted legal measures aimed at ensuring the protection of the right to health care, which can be implemented in the form of amendments and additions to the current legislation aimed at:

- ensuring unhindered access to the purchase of medicines, incl. through their remote acquisition;

- conducting continuous state monitoring of pricing in the drug market during the pandemic and the introduction of maximum allowable markups for the cost of drugs;
- strengthening legal liability for the sale of low-quality medicines.

In accordance with the Law "On sanitary and epidemiological welfare of the population", the requirements in the field of sanitary and epidemiological welfare of the population (including decisions of a Special Commission) have acquired the character of mandatory for all state and other bodies, legal entities and individuals. Art. 13 of the Labor Code, an addition has been made, according to which, if an employee refuses to undergo preventive vaccination (in the absence of contraindications), the employer has the right not to allow him to work. Taking into account the fears arising in society regarding the restriction of human labor rights, the Minister of Justice, referring to the practice of the European Court of Human Rights, recognized mandatory vaccination as in line with democratic norms, but pointed out that refusal to vaccinate cannot be a basis for dismissal of an employee.

The listed measures aimed at ensuring the right to human health, to a certain extent, influenced the general level of legal protection of a person. Under these conditions, the work of the human rights institutions of the state (the court, the ombudsman, the National Center for Human Rights, the prosecutors office, etc.), as well as civil society institutions, has intensified. Thus, despite the quarantine measures, the Ombudsman and his office, together with public activists, regularly monitored the observance of human rights in quarantine complexes, medical and penitentiary institutions, the meeting said.

In the course of inspections of penitentiary institutions, it was found that some of them did not have medical centers, they were not fully provided with first aid kits. The prosecution authorities identified shortcomings in the enforcement of legislative acts relating to the protection of reproductive health, maternal and child health, as a result of which, compared with 2020, in 2021, infant mortality increased by 428 (6432-6860), maternal mortality – by 10 (145-155) cases. This indicates that the right to human health has not yet been adequately ensured in practice.

The Legislative Chamber of the Oliy Majlis have taken measures to form a legal framework of vaccination of the population, parliamentary control over the timely and effective organization of measures for vaccination against coronavirus. The measures that were promptly taken in Uzbekistan include the establishment of a monitoring system, widespread testing, care for the elderly, the creation and expansion of a network of specialized clinics, and widespread free vaccination of representatives of “risk groups”.

The constitutional reform being carried out today in Uzbekistan is aimed at fixing in it the model of the state as a social state. This implies the strengthening of social policy measures.

In general, the analysis allows us to state: in the context of the pandemic, new legal acts were adopted aimed at ensuring everyone's right to health. The adopted acts, on the one hand, made it possible to ensure the uninterrupted functioning of the healthcare system in the context of a pandemic, and on the other hand, to begin the process of reorienting the healthcare system towards solving the main task - the fullest possible provision of the right to health.

The practice of using the recommendations of international bodies in the legal regulation of the fight against the pandemic

The human right to health and medical care is a universally recognised norm of international law, enshrined in the Universal Declaration of Human Rights. In order to eliminate the existing conflicts, gaps and problems both in the current legislation and in legal practice, it is necessary to use the experience and recommendations of international organizations in this matter. “A strong legal and policy framework is essential to fight COVID-19 in countries,” said WHO Director-General Dr Tedros Adhanom Ghebreyesus. Today, more than ever, it is essential to establish a strong legal framework for health”.

Human rights are a defining influence in shaping the strategy to fight the pandemic, not only in terms of responding to the health challenges of the pandemic, but also in terms of having a broad

impact on people's lives in general. Today it is generally recognized that the issue of ensuring human rights is in the center of attention of the whole society. Human rights-based measures go a long way in the fight against the pandemic, as they ensure respect for human dignity. Ensuring the right to health care, one must keep in mind that it is difficult to fully realize it precisely because of the conditions of the pandemic.

Within the framework of cooperation between WHO, UNDP, the Joint United Nations Programme on HIV/The COVID-19 Law Lab was established by the Interparliamentary Union and the Institute of National and International Health Law at Georgetown University. Her legal research and recommendations have supported Uzbekistan in developing laws granting people the right to access health promotion, prevention, treatment, rehabilitation and palliative care services.

Legal regulation in conditions of the pandemic must meet not only the requirements of efficiency, but also the requirements of legal values and ideas of legal culture. Here, legal norms must not be allowed to diverge from moral norms, in the paradigm of which salvation is the most important good. The attainment of absolute freedom, freedom for freedom's sake, cannot be the goal of society, nor can it be the basis for negligent inaction by the state in the face of a pandemic. Therefore, not only every person, but also the state is vitally interested in maintaining the moral and physical health of society and all its members. However, it should be noted that the main priority here should be the provision and protection of human rights. Thus, the "International Covenant on Economic, Social and Cultural Rights" defines the human right to health protection as follows - "the right of every person to the highest attainable level of physical and mental health" (Art. 12).

The legitimacy of imposing restrictions on human rights during a pandemic is based on the Siracusa principles adopted by the UN Economic and Social Council on Human Rights, which contain recommendations regarding restrictions on rights and freedoms in a state of emergency. The pandemic required tough, sometimes unpopular measures. In these conditions, it is important to ensure respect for human rights, otherwise they will turn into fiction, and their violations will become a daily norm. One of the ways to identify such cases in Uzbekistan was the creation of a round-the-clock hotline, as well as an Internet portal for receiving complaints from citizens about the actions of officials.

By and large, the pandemic highlighted the existing problems in the field of ensuring the right to health, and the activity of the state to ensure it has become a kind of indicator of the maturity of the state and society. It became clear that this right can be fully realized only if the priority of individual rights is unconditionally ensured. On the other hand, the effectiveness of ensuring the right to human health protection has shown the level of the state's ability to function effectively in emergency conditions.

The inability of the state to ensure this right damages the legal protection of the person as a whole. "COVID-19 is not only a health problem; it is also a virus that increases xenophobia, hatred and alienation" [19], the UN Special Rapporteur on Minority Issues, Fernand de Warenne, emphasized. Therefore, in the course of combating the pandemic, the legal consequences of the measures taken of a "purely" medical nature should be taken into account. For example, such a restriction measure as the removal of workers who have not been vaccinated from work should be applied strictly in accordance with the norms of labor legislation. An employment contract cannot be terminated with an unvaccinated employee, since this violates his labor rights.

The state cannot discreetly impose restrictions that infringe on rights and freedoms. Restriction of rights is an extreme measure used to ensure the safety of both an individual and the whole society. As the German expert notes, restrictions on human rights are "the boundaries established in law within which subjects must act; this is the deterrence of illegal behavior, creating conditions for satisfying the interests of the counterparty (in the broad sense of the word) and public interests in protection and protection" [20]. However, even the lawful application of restrictions is fraught with possible mistakes in law enforcement activities, as well as various violations of the rights and freedoms of citizens [21]. Therefore, the institution of restriction of human rights and freedoms needs to be

thoroughly studied in order to determine the optimal balance between individual interests and public and state interests [22].

The 1948 Universal Declaration of Human Rights states that "in the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society [23]. This provision is suitable to be regarded as a principle, as a legal value that sets the benchmarks for national legal systems in the field of legal regulation of restrictions on the rights and freedoms of citizens. Despite the importance and value of this norm, its vagueness and general nature gives rise to the possibility to commit "if not abuses, then at least restrictive measures disproportionate to the protected public interest" [24].

In view of the foregoing, understandable and unambiguous grounds, procedure and limits for restricting human rights in the context of a pandemic should be established in the legislation of Uzbekistan. In this context, the position of A.A. Umarova, who believes that such restrictions are permissible in a truly democratic society, in which such restrictions are used as a last resort, when other means have been exhausted, is justified. Indeed, restrictions should not become an end in themselves, they can only be a means of combating the pandemic and thus a means of ensuring the right to health and other human rights.

However, all restrictions must be temporary and "must be lifted once the crisis is over"[25]. It should be recognized that the fight against the pandemic potentially contains opportunities for the violation of individual rights. However, the fight against the pandemic potentially contains opportunities for violations of individual rights. For example, placing people in quarantine clearly limits their freedom of choice. It is therefore necessary to minimise the negative effects of quarantine, to ensure that conditions in quarantine zones are adequate to protect public health and that the stay of persons in quarantine zones should be accompanied by a respectful treatment of patients.

Close attention should be paid to the provision of medical care by medical institutions in the absence of medical insurance. Unfortunately, the legislation bypasses this issue in silence, which is abused by individual medical clinics. It is clear that, regardless of its availability, emergency medical care should be provided in conditions that pose a threat to human life, and free of charge. After the end of the need for emergency care, a person can receive medical care on a paid basis or according to the conditions of health insurance.

Noteworthy is the Norwegian experience, where a person has the right to choose a doctor, who can be changed twice a year, since the patient is not tied to a doctor at the place of residence. At the same time, an electronic journal is created on it, which contains information about the results of examinations and analyzes, which is confidential.

The fight against the pandemic is not over yet. Therefore, on March 18, at a meeting with representatives of the medical community, President Sh. Mirziyoyev outlined 7 areas of work to improve the country's healthcare sector. These are: the approximation of primary medical services to the population, the development of emergency medical care, improvement of conditions in medical institutions, financial incentives for workers in the field, provision of hospitals with qualified personnel, increasing the culture of healthy life in society, disease prevention [26]. Currently, the relevant regulatory legal acts aimed at implementing practical measures are being prepared for each of these areas.

Describing the measures to ensure human rights in the context of a pandemic implemented in Uzbekistan, it should be highlighted:

- functioning of a round-the-clock feedback channel on pandemic issues (call center, website of the Ministry of Health, on-call services of local polyclinics, etc.);
- revitalization of human rights institutions (court, Ombudsman, National Center for Human Rights, people's receptions and other organizations);

- monitoring and taking individual measures to support socially vulnerable categories of citizens (targeted national and regional state programs, the introduction of the so-called "iron notebooks" in mahallas containing information about assistance to such citizens);

- free provision of medicines and medical devices, medical and social care for the elderly, persons with disabilities, large families;

- provision of free legal assistance to the population ("hot line" of the Ministry of Justice, "legal clinics" at universities, etc.);

In a difficult epidemiological situation, citizens cannot fully exercise their individual rights and freedoms, for example, their social activity in the form of rallies, meetings and demonstrations (Art. 33 of the Constitution). Therefore, it is of great importance to activate the practice corresponding to the experience of European countries [26], according to which each person has the opportunity to remotely participate in the discussion of socially significant issues and decisions of state bodies. For example, the web portal "Mening fikrim" allows you to expand the participation of citizens in managing the affairs of society and the state, to ensure transparency in the activities of state bodies. According to experts, this helps to avoid public discontent, unrest and unrest [28]. Involving the public in discussions of the decisions of public authorities on social issues (health, environment, security, etc.) will ensure social support for the measures taken by the state in the fight against the pandemic.

Thus, the realization of the right to health protection in a pandemic to a certain extent helps to ensure the exercise of other rights and freedoms of people. The legal mechanism for ensuring the right to health care must function effectively, covering the entire range of elements of the right to health care.

At the same time, any restrictions are permissible only to the extent and in the forms permitted by the Constitution and the law.

Conclusion

The analysis carried out allows us to conclude that in the context of the pandemic, the relevance and importance of respecting and exercising the right to protection of human health has become aggravated. In the modern world, there is not only a rethinking and reassessment of the essence and role of this right, but also a change in the legal foundations, as well as the mechanism for its provision. New approaches to the study of the right to health care in legal science and law enforcement practice are ripe. The updating of these approaches stems from the specifics of the object and the change in the paradigm of human perception of the value of health in modern life.

The state legally recognizes health as the most important value and benefit, creates the necessary legal mechanisms to ensure the realization of the human right to health care.

It is necessary to improve the legal foundations of the right to protection of human health, which consists in the following: clarification and expansion of the wording of Art. 40 of the Constitution of Uzbekistan; adoption of a number of new and adjustment of some existing laws relating to the field of health protection; improvement of the legal mechanism for ensuring and protecting the right to health care, and even better - the development of a single codified law.

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