
The Program Establishing The Universal Digital Civil Code Of The Turkic States' Organization In The Matter Of Digitalization And Needs Of Population In The Statutes Of Islamic Law

Gulyamov Said Saidakhrarovich¹

¹Tashkent State University of Law (said.gulyamov1976@gmail.com)

Submitted: 30/08/22 Revised: 26/09/22 Accepted: 30/09/22

ABSTRACT

This article's purpose mainly based on discussing and analyzing the current problems and gaps of civil law complicated by digital and religious aspects, attracting attention of the Organization of Turkic States (Countries) and propose a number of new technological and theological principles for development in the future. A step-by-step mechanism of the Program for the joint development and adoption of the Digital Civil Code (DCC) is proposed in order to improve and unify the existing principles and norms of the legislation of the Countries in the field of civil law by gradually analyzing. The conceptual basis of the DCC will be the definition of the new fundamental principles and legal structures in the Turkic States, which will be the foundations and vectors model of public administration system targeted development in civil law relations, complicated by digital and religious elements and emerging and transforming new civil law regulations in the Cyber law. The DCC will allow people to set the boundaries of acceptable digital behavior, provide protection from illegal acts, guarantee the user's personal data confidentiality (cyber law security), protect human rights, freedoms and etc. The preparation period of the DCC program is expected for 3 years and divided into stages: 1. Organizational part. 2. Analyzing the conditions and trends of the country's civil law legislation. 3. Analyzing the civil law rights regulation in Islamic Law. 4. Analyzing the digital civil rights in Private International Law. 5. Analyzing the modern technological inventions and their impact on Civil Law regulation. 6. Discussing and preparing the DCC. 7. Approbating the DCC. 8. Establishing the final recommendations to implement the DCC. The DCC will be relevant and useful not only for these Countries, but also for other countries globally.

Keywords: Cyber Law, Digitalization, Draft of DCC.

INTRODUCTION

Everything is becoming digitalized. Neither national nor international law making process can keep up with IT technologies and changing trends in the field of legal relations complicated by the digital elements. New subjects (artificial intelligence, information and technological intermediaries, platforms, etc.), new objects (digital property, bots, social media accounts, cryptocurrency, intellectual property results and products created by AI, etc.), new forms of civil legal relations (metaverse, smart contracts, digital marketing, digital trading platforms, social networks, emoji, online finance, FinTech and etc.) and new ways of self-protection (online justice, AI justice, AI mediation, online voting, ratings, user comments, discussion platforms, intra-organizational regulation, and etc.), which have not been fully reflected in legislation the Turkic States of the post-Soviet Union.

The lack of similarity in the Countries legal systems may lead to different interpretations of law, which may conflict with each other and lead to a lack of control over the content. Also, gaps in regulations can lead to a vague system leading to inconsistent policies, which can make it difficult for users (or the public) to understand what legal and illegal behavior in cyberspace is. This is confusing to both users and authorities regarding enforcement of civil transactions, privacy and online share.

Generally, it is recognized that modern civil law has included elements of Islamic law, such as the solidarity and equality ideas between people, the principles of property for a long time ago(1).

The Quran mainly includes the Islamic law regulation, which is considered as a God's divine word. Islamic law established a set of principles which are the basis and source of inspiration for the whole Islamic world. It has four main sources: the Quran, the Hadith, Qiyas and Istihsan (judgment) and unofficial sources such as public opinion, custom or local needs, where revealed answers to the many unresolved disputes of Civil law.

The positive impact of Islamic law on civil law relations lie on the principles and norms calling for social equality, while the principles of secular civil law (with more stringent principles) are based on the individual's will. It is clear that the adaptation of religious principles will contribute to the development of social cohesion, while the application of secular principles contributes to social fragmentation of today's society.

METHODS

The method used is the normative juridical method or the doctrinal method with library data. The analysis of the data is a qualitative descriptive analysis with a comparative approach and a legal approach

RESULTS

Islamic code of conduct has significant influence on how countries operate. Meanwhile, Islamic civil law is not only a source of positivity but it also plays an important role in keeping peace and stability. Many studies have been carried out analyzing Islamic law's effect on human beings behavior and conduct. In 2015, British Academy study(2) demonstrated that Islamic law values can be effectively used to promote peace and economic stability.

It should be noted that the public views and principles of the Post-Soviet states' Turkic-speaking regions have been clearly transformed (from secular to religious) and the unofficial application of Islamic rules has significantly grown in various areas of law as, financial law, family law, inheritance law and etc. It means that this practice exists de facto. Because population believes that Islamic Law is better concerning needs and problems of Muslims (Lending in Islamic Law, Lifestyle based on Sharia rules and etc.). Meanwhile, de jure it is not recognized by civil law and by courts, which creates some restrictions of human rights and freedoms(3).

There are no significant similarities between Islam and secular legal systems. Islamic law is a completely different legal system with its own fundamental principles. Meanwhile, Islamic values should be carefully and delicately adopted by civil law (without prejudice to the rights of other faiths) and adapted to the needs of a changing society or alternatively recognized by law (the practice of Turkey, Indonesia and Malaysia).

Emerging or transforming under the digitalization influence, socialization and increased religious activity in civil law relations urgently require state's intervention in their legal regulation to ensure the protection of rights and legitimate interests of their citizens and organizations(4).

Another solution would be creating a joint model Digital Civil Code (hereinafter - DCC), the purpose and objectives are to modify and unify the existing principles and norms of the legislation of the Turkic States in Civil law.(5)

The DCC conceptual basis is to define the joint new fundamental principles and legal structures that will model the foundations and vectors of the targeted development of the public administration system in civil law, complicated by digital and religious elements, emerging and transforming modern civil law relations in the Turkic States cyberspace(6).

The DCC will allow you to set the boundaries of acceptable behavior, provide protection against illegal actions, guarantee the confidentiality of users' personal data (cyber security), provide a wider range of human rights, freedoms and etc.

The DCC will be relevant and useful not only for these Countries but also in demand at the international level.

The preparation period of the DCC program is expected for 3 years and divided into stages: 1. Organizational part. 2. Analyzing the conditions and trends of the country's civil law legislation. 3. Analyzing the civil law rights regulation in Islamic Law. 4. Analyzing the digital civil rights in Private International Law. 5. Analyzing the modern technological inventions and their impact on Civil Law regulation. 6. Discussing and preparing the DCC. 7. Approbating the DCC. 8. Establishing the final recommendations to implement the DCC(3).

CONCLUSION

Currently, global digitalization and socialization is inevitable. This means that a new dimension has appeared in modern society: rights complicated by a digital or religious element, which is of great concern to researchers and practitioners in this field.

The main goal of this Program is to try to propose a mechanism for the development and adoption of a modernized Civil Code demanded by society and the state.

Based on the analysis of international studies, it was found that the introduction of new principles in the regulation of civil relations will positively affect morality, education and the development of society; on industry sectors of the economy and social sphere; on the justice system; public administration and more.

The DCC can be applied by all parties, be it the private sector or government agencies. Since its adoption is expected to increase the need for technical and religious specialists in this field, it is necessary that they be educated and prepared to support this modified legal system.

Since global digitalization is inevitable, the world must prepare for these inevitable changes. Adapting a model digital civil code can be a good way to help states make the transition from analog to digital, from the individual to the social, smoother and more efficient.

ACKNOWLEDGEMENT

This research had been presented at International Conference ICRTLAW at Faculty of Law, Universitas Muhammadiyah Surakarta

REFERENCES

1. No Title [Internet]. wikipedia.org. Available from: [http // www. Wikipedia.go.id](http://www.Wikipedia.go.id)
2. The Role of Religion in Conflict and Peace Building [Internet]. The British Academy. Available from: https://www.thebritishacademy.ac.uk/documents/325/Role-of-religion-in-conflict-peacebuilding_0_0.pdf
3. Et.al MAL. The concept of a classification system for legal acts. consultant.ru. 1999.
4. Republic of Uzbekistan. Law of the Republic of Uzbekistan "On regulatory legal acts" [Internet]. Uzbekistan; 2021. Available from: <https://lex.uz/>
5. No Title [Internet]. strategy.gov.uz. Available from: <https://strategy.gov.uz/ru/pages/about>
6. No Title [Internet]. studies.in.ua. Available from: <http://studies.in.ua/ru/porvnyalno-pravoznavstvo.html>