

## PECULIARITIES OF CODIFICATION OF WATER LEGISLATION

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**Abstract:** The article deals with the issues of codification of water legislation in the Republic of Uzbekistan at the present stage of new reforms, creation of the Water Code of the Republic of Uzbekistan.

**Keywords:** water, water law, water legislation, code, codification, normative document, act.

**Introduction:** Today, at the stage of new reforms, the protection of water resources has become a global problem, and based on the experience of developed countries, the codification of water legislation in the new Uzbekistan is one of the most pressing issues on the agenda. As correctly noted in the legal literature on this issue, “codification is a specific form of systematization of legislation,”<sup>1</sup> and “represents the rules covered by grouped regulatory acts in one new codification regulatory document, which combines all legal regulations, included in the network (industry or several branches) of systematic legislation, and in connection with the adoption of this new codification document, all old documents have been merged.”<sup>2</sup>

A study of the experience of foreign countries in the codification of water legislation as the main form of systematization shows that in one group of countries codification was adopted as a result of the systematization of water legislation; in the second group of states, water relations were regulated through separate legislation. In this regard, countries that have adopted the Water Code as the final result of systematization of water legislation documents include the Philippines (1977), Côte d'Ivoire (1996), Sweden (1999), France (2000), Italy (2006), Kazakhstan (2007) and Estonia (2011). Studying the experience of codification of the water legislation of these states undoubtedly plays an important role in improving the water legislation of the Republic of Uzbekistan and in developing the concept of the Water Code of the Republic of Uzbekistan.

There are three different views on the concept and features of the codification of legislation in scientific sources. For example, the legal encyclopedia of Uzbekistan says that “codification (lat. “Code”- “set of laws” and “factio”-“do”) is the highest form of systematization of legislative acts, the creation of a new regulatory document in the form of amendments and additions to existing regulatory documents through deep and comprehensive processing and introduction of amendments and additions to them”<sup>3</sup>.

R. Narits, H. Kauffmann and K. Weber understand codification as “a set of legal documents regulating one industry and combining it into a single code”<sup>4</sup>. As explained in Black’s legal dictionary, “codification is the process of systematic collection and unification of laws of a particular states or normative legal acts of a certain sphere”<sup>5</sup>.

H.Veinla believes that “codification is a modification that has an innovative

feature”. The author believes that codification can be in the form of original codification or consolidation (simple codification). He believes that the most important aspect of codification is its ultimate, complete characterization and the exclusion of other sources of law”<sup>6</sup>. “With each adoption of a new code, another network of rights takes a big step towards its independence,”<sup>7</sup> - said F. Grua.

According to T.V.Petrova, “the tasks to be solved by the codification process are to fill in the gaps in the current legislation and eliminate contradictions, develop a number of basic institutions of water law, increase the level of legal regulation from the bottom of the law to the level of the law, and cancel completely or partially obsolete legal acts.”<sup>8</sup>

As Dj.I.Safarov rightly noted, “codification is the main form of legislative regulation and at the same time the development of its content. It is closely related to the processing, modification and improvement of the content of legal regulation, in itself representing the deepest systematization of legislation. Codification is used to regulate the network of rights, public relations in a particular sphere, taking into account its specific features, both integral and non-existent.”<sup>9</sup>

Based on the foregoing, it can be noted that the codification of water legislation is one of the independent forms of systematization of the legislation of this network and represents legislative activity aimed at achieving the unity and integrity of water normative legal acts by processing their contents. In the process of codification, it will be possible to combine and systematize practically substantiated norms of water legislation with the processing of their contents, declare normative guidelines strictly and in accordance with mutual internal compliance, and fully regulate relations in this sphere. The codification also serves to critically review the current norms of water legislation, eliminate mutual inconsistencies and contradictions, and eliminate repeated, outdated norms and gaps in the legislation.

Today, at the stage of new reforms, special attention is paid to the protection of water resources in our country, the fact that the content of public relations related to the use of water resources is acquiring a fundamentally new content as one of the main means of maintaining public health, increasing the legal awareness and culture of citizens relation to water resources.

The codification of water legislation plays an important role in the regulation of relations related to the protection and rational use of water resources, which is distinguished by a number of specific features: this codification document is considered the most important integrated regulatory document in the system of legal regulation of water relations and contains a general principle that determines its order application; codification document in the field of water relations is a comprehensive legislative document consisting of a systematic amount of interrelated directives; codification of water legislation is a codification document, that is, the Water Code is adopted.

Different opinions were expressed on the concept, content and significance of the formation of legislation as a Code in the legal literature. Furthermore, S.V. Bashno noted that the “code (lat. “book”) is a systematic set of norms and rules that govern a particular sphere of public relations in a unified and comprehensive way.

The code either fully covers all the norms of the relevant sphere (for example, the Criminal Code), or represents the most important and ambitious of these norms (for example, Civil, Labor Codes). The Code is of great importance in the field of relevant law, because it combines the norms of all its main institutions. An important aspect of the codes is that they govern stable, established social relations”<sup>10</sup>.

According to D.V.Chukhvicev, “the code is a special complex law that systematically represents the totality of all regulatory and legal materials (or a significant part of them) relating to a certain network of rights; it directly regulates public relations subordinate to the subject of legal regulation; the core of the Institute of Law, the basis of which in some cases is the legal relationship”<sup>11</sup>.

The proposal to adopt the Water Code of the Republic of Uzbekistan as the highest form of systematization of water legislation is also put forward by Uzbek ecologist-lawyer scientists. In particular, Y.O. Juraev, M.B. Usmanov, J.T. Kholmuminov and Sh.Kh. Fayziev note that the time has come to reform the legislation on the protection and rational use of water resources.<sup>12</sup>

In the special scientific literature, opinions are expressed about the existence of various ways to create a Water Code. For example, S.A. Bogolyubov writes about codification of environmental legislation: “there are three ways to codify environmental legislation: the first way is “codification by combining existing laws in the direction of nature protection”, the second way is “removing parts of nature protection from natural resources legislation and adding them to other laws in the field of nature protection,” the third way is “codification by combining existing laws in the direction of nature protection.”<sup>13</sup> In our opinion, it is advisable to formulate the Environmental Code only on the basis of rules aimed at protecting natural objects, while the Water the code consists of rules for the content of both protection and use, in accordance with the goal of creating order.

The importance of creating a Water Code can be explained by the following factors: the code is the most complex form of systematization of legislation, which includes a comprehensive analysis and improvement of the current water legislation; the Water Code serves to solve existing problems in legislation in this area; the Development of the Water Code will eliminate existing gaps, gaps and inconsistencies in the current water legislation; the Water Code will become the main legislation regulating water relations and will significantly increase the efficiency of regulating these relations; the Water Code provides for the convenience and simplicity of applying water legal norms, etc.

When it comes to creating the Water Code, it is possible to carry out the codification of this legislative network in several stages: the first stage is the preparatory (organizational) stage, where the documents of the water legislation are collected, an inventory is made, necessary changes and additions are made to them, the positive experience of foreign countries is analyzed in this area, as well as determining the foundations of the legal regulation of water relations and the creation of a working group to prepare this large-scale document, ensuring their implementation (2020-2021).

The second stage is an analytical stage, which will be largely associated with the

activities of the working group. In particular, their activities will be directly related to the comparison and analysis of the content of legislative acts in the system of water legislation, their creative processing. As an alternative, it is also desirable to indicate a reasonable period for the stages of preparation and implementation of the analytical work and parts of the Water Code (2022-2023).

The third stage is the final stage, in which the draft Water Code, prepared by the working group and carefully studied by lawyers, is submitted to the Legislative Chamber of the Supreme Assembly through the appropriate legislative initiative, and thus begins the stage of consideration and adoption of draft laws of the legislative process (2023-2024).

Research on the creation of the Water Code initially suggested dividing its internal structure into general and specific parts. This is conditional and is reflected in the current codes.

Based on the above, it is reasonable to explain that the creation of the Water Code is not complicated by the presence of foreign experience in codifying legislation in this sector. Using this experience, you can solve a number of issues that are important for codification. It is also advisable to codify water legislation with effective use of positive aspects of the development of legislation in Uzbekistan, legal concepts in the current system of legislation, principles laid down in water legislation, etc.

In this process, in our opinion, the implementation of the following tasks should be of priority importance: to determine from the point of view of attracting attention and addressing the existing gaps, shortcomings and mutual contradictions in the current water legislation in an acceptable Water Code; determine the purpose, subject, methods and principles of regulation of the Water Code; highlight regulatory legal acts and etc.

The adoption of a codified network legislative document (Water Code of the Republic of Uzbekistan), aimed at ensuring the protection of water resources, serves to ensure the protection of water resources, their more rational and efficient use, as well as to ensure the natural rights of citizens to water, to ensure the full conservation of water resources for the future generation.

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