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# Reinforcing entrepreneurs' economic rights in the age of digital constitutionalism: legal institutions and judicial challenges

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**Abstract:** The protection of entrepreneurs' economic rights is evolving rapidly amid global digital transformation. This article analyzes how constitutional and judicial systems adapt to emerging digital realities, using the case of Uzbekistan as a focal point. It examines how foundational constitutional guarantees, legislative initiatives, and judicial practices shape an environment conducive to entrepreneurial freedom. Special attention is given to challenges in digital justice, such as the handling of digital evidence, cross-border disputes, and cyber risks. The article concludes with strategic recommendations for integrating constitutional safeguards with modern legal tools to protect entrepreneurs in the digital economy.

**Keywords:** Entrepreneurship, digital economy, constitutional rights, judicial protection, Uzbekistan, legal reform, digital justice, economic freedom.

**Introduction:** Entrepreneurship represents one of the foundational pillars of modern constitutional democracies. Its vitality hinges on the assurance of strong legal protection, particularly regarding economic rights such as property ownership, contractual freedom, and protection against arbitrary state interference. With the advent of the digital economy, however, new complexities have emerged - posing structural and conceptual challenges to existing legal frameworks.

This article investigates how constitutional and judicial institutions adapt to protect entrepreneurs' rights in the face of digital disruption. Using the example of Uzbekistan - a country undergoing constitutional renewal and rapid digitalization - it considers both normative principles and practical gaps in legal implementation. The paper emphasizes the growing

importance of state institutions, especially the Parliament and the judiciary, in fostering an environment of economic freedom and legal predictability.

The 2023 Constitution of the Republic of Uzbekistan marks a significant step toward codifying entrepreneurs' rights at the highest legal level. Articles 65, 67, and 31 provide foundational guarantees, including the inviolability of private property, freedom of economic activity, and a state obligation to maintain a favorable investment and business climate.

What makes these guarantees especially relevant today is their application in a technologically evolving society. Article 67, for example, underscores entrepreneurs' right to choose their field of activity, a freedom that takes on new meaning in the context of e-commerce, fintech, and blockchain-based business models. The state's role has thus shifted from merely creating legal norms to facilitating an environment where technological innovation does not outpace legal protection.

In this constitutional context, digital entrepreneurship becomes not only a matter of economic policy but also a component of human rights. Economic freedom, recognized in many modern constitutions, includes the right to access digital infrastructure, to secure electronic contracts, and to protect digital assets. These elements now require constitutional jurisprudence to evolve accordingly.

Legislatures play a pivotal role in translating constitutional principles into actionable laws. In Uzbekistan, the Parliament (Oliy Majlis) has increasingly positioned itself as a key actor in promoting economic rights. Through legislative initiatives, oversight functions, and public hearings, the Parliament influences the regulatory environment for entrepreneurs.

A notable development is the drafting of the Entrepreneurial Code of Uzbekistan, expected to unify fragmented business legislation and reinforce key principles such as legal certainty, equality of business actors, and fair competition. Earlier reforms - such as the 2000 Law "On Guarantees of Freedom of Entrepreneurial Activity" - established baseline protections, but the new code aims to integrate these within a comprehensive framework better suited for the digital economy.

Moreover, the institution of written appeals by individuals and legal entities - codified in the Law "On Appeals of Physical and Legal Persons" - has become a practical mechanism for state accountability. Entrepreneurs use this channel to highlight regulatory inconsistencies, demand transparency, and propose

reforms. It serves not just as a procedural tool but as a reflection of participatory constitutionalism, whereby citizens directly engage in shaping economic governance.

While legislative activity lays the foundation for protecting rights, the judiciary enforces them in practice. Judicial protection is indispensable for upholding entrepreneurs' rights—especially in disputes with public authorities. However, traditional court systems often struggle with the demands of digital litigation.

Several key challenges emerge:

- **Digital Evidence and Expertise:** Courts increasingly encounter evidence in the form of blockchain logs, encrypted emails, and digital signatures. Properly evaluating such evidence requires technical expertise that many courts lack.
- **Cross-Border Jurisdiction:** The digital economy is inherently transnational. Entrepreneurs operating on international platforms often find it difficult to resolve disputes due to uncertain jurisdictional rules and difficulties enforcing judgments across borders.
- **Cybersecurity Concerns:** Judicial processes involving sensitive commercial data are vulnerable to cyber threats. Leaks of proprietary information during litigation could cause irreparable damage to businesses.

To address these challenges, countries like Uzbekistan are considering reforms such as the digitalization of courts, judicial training on digital technologies, and the establishment of pilot digital courts modeled on those in Singapore or Estonia.

Beyond state institutions, non-governmental structures contribute to a multi-layered system of rights protection. Business associations, chambers of commerce, and arbitration centers provide alternative avenues for conflict resolution and policy dialogue.

Arbitration and mediation, in particular, offer efficiency and confidentiality - advantages that entrepreneurs value in commercial disputes. In Uzbekistan, the development of independent arbitration institutions aligns with global trends toward private justice mechanisms. These forums often prove more agile than state courts in resolving complex, tech-related disputes.

Importantly, non-state mechanisms complement rather than substitute judicial remedies. Their legitimacy and effectiveness depend on their alignment with constitutional standards. Therefore, any robust system of protection must include coordination between formal and informal institutions.

The notion of protecting entrepreneurs is not purely legal - it is also philosophical. From Aristotle's defense of natural acquisition through labor, to John Locke's

concept of property as a natural right, Western legal thought has long recognized economic freedom as intrinsic to human dignity.

In modern times, thinkers such as Friedrich Hayek and Milton Friedman emphasized the link between economic liberty and democratic society. Hayek warned that the erosion of economic freedom would inevitably undermine civil liberties. In this view, entrepreneurial rights serve as a barometer of political maturity.

Uzbekistan's evolving constitutional order resonates with these ideas. President Shavkat Mirziyoyev's statement - "The entrepreneur is the backbone of society, and the state must create all conditions for their honest work" - captures the normative shift toward viewing entrepreneurs not merely as taxpayers but as co-creators of national development.

In light of current challenges, the following measures are proposed:

1. **Digital Court Integration:** Develop a secure national platform for online dispute resolution, particularly for cross-border commercial claims.
2. **Judicial Training Programs:** Launch specialized programs on digital law, cybersecurity, and emerging technologies for judges and legal practitioners.
3. **Smart Legal Frameworks:** Enact legislation to regulate blockchain-based transactions, digital assets, and AI-driven services, ensuring consistency with constitutional norms.
4. **Parliamentary Monitoring of Digital Reforms:** Establish oversight bodies to assess the implementation of digital legal reforms and their impact on business rights.
5. **Public-Private Dialogue Platforms:** Institutionalize mechanisms for regular interaction between entrepreneurs, legislators, and regulators.
6. **Data Protection and Cybersecurity Laws:** Strengthen laws on the handling of commercial data, ensuring judicial processes protect confidentiality.

As the digital economy continues to reshape commercial life, legal systems must adapt to ensure that entrepreneurs' rights are not left behind. Uzbekistan offers a compelling case study in combining constitutional innovation with institutional reform. Its experience underscores the importance of both foundational legal principles and adaptive judicial mechanisms in upholding economic freedom.

By reinforcing the legal status of entrepreneurs - through parliamentary engagement, judicial reform, and digital infrastructure - the state fulfills not only a legal duty but also a moral commitment to those who

drive its economy. In doing so, it strengthens the rule of law and lays the groundwork for inclusive, sustainable development in the digital age.

## REFERENCES

- Constitution of the Republic of Uzbekistan. (2023). National Database of Legislation, No. 03/23/837/0241.
- Law of the Republic of Uzbekistan "On Appeals of Physical and Legal Persons." (2024). National Database of Legislation, No. 03/24/963/0735.
- Locke, J. (2021). *Two Treatises of Government* (M. Goldie, Ed.). Cambridge University Press.
- Montesquieu. (2020). *The Spirit of the Laws* (A. Cohler, B. Miller, & H. Stone, Trans.). Cambridge University Press.
- Hayek, F. A. (1944/2007). *The Road to Serfdom*. University of Chicago Press.
- Friedman, M. (2002). *Capitalism and Freedom*. University of Chicago Press.
- President of Uzbekistan. (2023). Official Statement on Entrepreneurship Policy. Retrieved from: <https://president.uz/ru/lists/view/7778>
- Ogibenina, A.A., & Petrov, I.V. (2023). Protection of Rights and Interests of Entrepreneurs. *International Journal of Humanities and Natural Sciences*, 11(2), 129-132. <https://doi.org/10.24412/2500-1000-2023-11-2-129-132>
- Satyrina, Y.S. (2016). Problems of Entrepreneurial Rights Protection During State Control. *Modern Science: Problems and Development Perspectives*, 214-221.
- Nazarenco, A.A. (2019). Principles of Protecting Entrepreneurs' Rights. *Science, Education and Culture*, 5(39), 48-50.
- World Bank. (2022). *Doing Business 2022: Comparing Business Regulation in 190 Economies*. Retrieved from: <https://www.worldbank.org>
- UNCTAD. (2023). *Digital Economy Report 2023: Cross-Border Data Flows and Development*. Retrieved from: <https://unctad.org>