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COMPARATIVE LEGAL ANALYSIS OF DOCUMENTS OF THE PRESIDENTS OF UZBEKISTAN AND THE USA

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Abstract

This scientific article provides a comparative legal analysis of the documents of the President of the Republic of Uzbekistan and the President of the United States of America. The study covers the legal nature of the Presidential documents, the procedure for their adoption, legal force, and their role in state administration. Also, the constitutional foundations of the powers of the President in Uzbekistan and the United States, the system of documents, and their significance as sources of law in the legal system are compared, and similarities and differences are identified. At the end of the article, relevant proposals and conclusions are given on improving the Presidential documents.

Keywords: Documents of the President of the Republic of Uzbekistan, documents of the President of the United States, decree, resolution, order, administrative order, proclamations, executive orders and others.

Introduction

The institution of the Presidency occupies a special place in the political and legal system of independent states. As the country's highest state authority, the President is an important figure who determines and implements state policy in the political, economic, social and legal spheres.

We know that in developed countries, heads of state adopt documents, for example, the United States is a member of the Anglo-Saxon legal family, and the President of this country primarily signs Federal laws, issues binding normative orders (Executive Orders) on political governance. In short,



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Executive Orders (Decrees) have the right to sign or veto Proclamations, Presidential Memoranda, and Federal laws, or in the German Federal Republic, the President approves laws adopted by the Bundesrat and Bundestag.

In the United States, which is part of the Anglo-Saxon legal family, and in Uzbekistan, which is part of the Roman-Germanic legal family, heads of state generally approve or adopt the following documents: In Uzbekistan, the head of state approves laws, adopts decrees, resolutions, and orders, while in the United States, he has the right to sign to veto¹ and **Executive Orders, Proclamations, Presidential Memoranda²**, and Federal laws.

Therefore, decrees, resolutions, orders and other regulatory legal acts adopted by the President are recognized as one of the main legal instruments of state administration.

While the documents issued by the President of the Republic of Uzbekistan are aimed at ensuring the rule of law in the country, strengthening social stability, implementing economic reforms, and improving the well-being of the people, the documents of the President of the United States serve mainly to regulate the activities of the executive branch, determine federal policy, and protect the country's interests in foreign relations.

Therefore, when determining the legal nature of the documents adopted by the heads of both states, the fact that they belong to two different legal families is also distinguished by the legal nature of the documents and their place in the legal family. That is, Uzbekistan is characterized by belonging to the Roman-Germanic (continental) type of legal family (system), while the United States is characterized by belonging to the Anglo-Saxon (common) legal family (system). In jurisprudence, we can learn more about these through the science of comparative jurisprudence. It is natural to ask what are the differences between the above two different families. Indeed, these differences are visible in the following:

¹ The president does not approve a law passed by the parliament, and it does not come into force. This rejection is called a "veto". Therefore, the US President has a strong veto power.

² An executive order is a formal document issued by the President of the United States to direct the activities, practices, and policies of various departments and agencies of the executive branch. It may have the force of law and is often used to delegate tasks, direct a specific government agency to do something, or initiate an administrative process.



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First of all: in Anglo-Saxon, the main source of law was considered to be judicial law. For example, in England, the decisions of the royal courts, the conformity of parliamentary acts with the decisions of the Supreme Court in the USA, the decisions of the Supreme Court on the constitutionality or non-constitutionality of a law, etc.;

Secondly: Anglo-Saxon has a more casual character than other legal families;

Thirdly: in the Anglo-Saxon legal family, the role of procedural law, not substantive law, is more important.

Fourthly: in the Anglo-Saxon legal family, the role of the judiciary is more important than any other organ of state power;

Fifthly: in the Anglo-Saxon legal family (legal system), there is almost no constitution (in England and Canada), but rather constitutional acts, for example, the Parliament Act of 1911 in England.

Now, the Republic of Uzbekistan is one of the countries that originally belonged to the Roman-Germanic (continental) family of law, therefore, the main form of law in our state is a normative legal act. The head of state, as an important subject, participates in this process of law-making and can directly affect its types.

In fact, it is a specific aspect of the Roman-Germanic legal family (legal system), in which, along with legal acts, legal customs, general principles of law, judicial precedents, practice, normative treaties and doctrines also play an important role as a source (form) of law. However, in some countries, for example, in countries belonging to the Anglo-Saxon legal family, judicial practice or judicial law is the main source, and even the documents of state leaders are a form of post-judicial law. For example, the United States, Canada, and Great Britain can be cited as examples.

In the Roman-Germanic legal system, it is possible to see the systematization of legal acts, the development of civil, commercial and trade law as an independent branch of law, the separation of the legal system into public and private, and most importantly, the law as the main source of law.

In today's globalization, it may be somewhat more difficult to study the experience of different countries, in particular, to analyze the possibility of further improving the legal mechanisms of the President's activities in



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Uzbekistan by analyzing the system of documents of the President of a country with a developed democratic system like the United States. Because the main difference is that they belong to two different families of law. However, in essence, they can determine important strategies in the field of state governance. In all countries, presidential documents are one of the most important tools in the field of public administration, both politically and legally. They exist in different forms in different countries, and their legal force, procedure for issuance, and purpose depend on the political and legal system of the state. While the official documents of the President of the Republic of Uzbekistan (decree, resolution, and order) are defined in the **Constitution**³ and the Law “**On Normative and Legal Acts**”⁴, the documents of the President of the United States are defined solely by Article II of the **US Constitution**⁵.

If we consider the practice and the national basis, the decrees of the President of the Republic of Uzbekistan can be considered, firstly, as individual documents. They serve to resolve organizational, personnel, financial and other practical issues. Also, in some cases, decrees may have a normative character, but this is not their main legal feature; secondly, the decree is a legal document on management, thirdly, in Constitutional law it is issued by the head of state and executive authorities within the scope of their powers, and fourthly, the decision of the executive authority on urgent and other current issues is issued in the form of a decree.

However, according to the level established by the Constitution, orders are inferior in legal force to decrees and resolutions, but they play an important role as a means of exercising direct control over the executive branch of the President. In practice, their scope is expanding, especially in the areas of economic and financial management.

Currently, the legislative documents do not provide a clear definition of the **Presidential Decree and Resolution**. However, based on the practice of law enforcement, it can be said that a decree is a normative legal act or subordinate

³ <https://lex.uz/docs/6451070>

⁴ LRU-682-coH 20.04.2021. On normative legal acts

⁵ <https://constitutioncenter.org/the-constitution/articles/article-ii>



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legislation adopted only by the President and aimed at establishing, amending or repealing legal norms as generally binding state instructions. It is also adopted in matters of reforming spheres of public life, establishing or liquidating state bodies (vah.kk.). **A resolution** is an official document or subordinate legislation adopted by the President, the Cabinet of Ministers, ministries, governors, who are also charged with resolving this or that issue. Or it is a document or subordinate legislation adopted by a state body or official within the scope of their authority and having some consequences⁶.

The President of the United States, under the Constitution⁷, is the head of state and executive government of the United States and the commander-in-chief of the armed forces and navy of the United States.

The official acts adopted by the President of the United States are divided into several types. They differ depending on the President's constitutional powers and political and executive activities.

–Executive Order (Executive Order / Presidential Decree). This is an official document of the President's executive authority, which provides instructions on the implementation of public policy or the implementation of existing laws. It can be normative in nature. For example: assigning tasks to federal agencies, implementing political programs, determining measures related to national security. For example, former President Franklin Roosevelt's Executive Order No. 9066 (on the internment of Japanese-Americans) issued in 1942;

–Proclamation (Presidential proclamation or decree). This is an official statement by the President, through which he announces a specific event or draws attention to an important socio-legal issue. Sometimes it has legal force, and sometimes it has only political and propaganda significance. For example, proclamations announcing Independence Day, Labor Day, or National Security Week;

– Presidential Memorandum (Presidential Memorandum or Memorandum). This is an official instruction or reminder document addressed to the executive branch. It is somewhat similar to an executive order, but often in a less formal

⁶ The explanatory dictionary of the Uzbek language defines the word resolution as: "a decision, ruling, adopted by an official body, organization, assembly, official, etc., on a matter or issue after consultation."

⁷ <https://constitutioncenter.org/the-constitution/articles/article-ii>



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form. For example, an instruction to develop a new strategy for certain policy areas;

Presidential Determination or decree (Presidential Decision). In accordance with US law, in some cases, a personal decision of the President is required. This document is often adopted on foreign policy or defense issues. Example: A decision to provide economic assistance to a country or to impose sanctions;
–Presidential Directive. This is a document mainly related to national security and defense policy. It may be classified or intended for limited use. For example, a directive on the approval of a counterterrorism strategy;
–Veto Message. The President's official refusal to sign a law passed by Congress. This is also one of the presidential documents, which states the reasons for the rejection of the bill.

–Signing Statement. A document that the President uses when signing a law. Through it, the President expresses his attitude to certain provisions of the law or indicates how it should be implemented.

The conclusion is that the documents of the President of the United States are not the same in terms of legal force, some, for example, Executive Order, have binding force, while others, for example, Proclamation or Memorandum, have only political or administrative significance. All of them are tools for the President to exercise executive power. Therefore, the documents of the President of the United States can be distinguished according to their legal force and purpose as follows:

– **Executive Orders** – executive orders, which are the most important and binding documents;

–**Proclamation va Memorandumlar** – has more political or administrative significance;

–**Veto va Signing Statementlar** – are the President's control tools in the legislative process.

The President of the United States can pardon anyone convicted of violating federal law. The President can also issue executive orders, such as executive orders. The President cannot pardon himself, as the right to pardon is immediately revoked upon conviction or trial for a crime.



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The President has the power to veto a bill passed by Congress. Congress, in turn, can vote to overturn a presidential veto.

Although the concept of an “executive order” is not explicitly mentioned in the US Constitution, such orders are issued under the President’s executive authority. An executive order provides guidance to federal government agencies and has a certain degree of legal force.

Executive orders usually must not contradict laws passed by Congress, and they can also be overturned by the US Supreme Court. This system of judicial review prevents the executive branch from gaining unlimited power. Such documents cover many areas, such as domestic policy, economics, security, immigration, and ecology. Each order is officially published in the Federal Register, which ensures legal certainty and transparency.

Although the Constitution directly states that the President of the Republic of Uzbekistan has the authority to issue executive orders, just like the presidential order in the United States, the current Law "On Normative and Legal Acts" does not include the presidential order as a normative legal act. The main reason for this difference is that executive orders usually have an individual legal nature, they are adopted in relation to a specific person, event, or situation (for example, appointment to a position, award, assignment of tasks, etc.). Therefore, they are not included in the list of normative acts.

In practice, it can also be seen that some Presidential decrees may have a normative content. For example, in cases such as assigning tasks to several ministries, allocating budget funds, or determining government policy in certain areas, decrees have a broader legal effect. Such mixed situations lead to a lack of clarity in the legal system. Although in practice these decrees can be implemented as normative documents, their formal legal status is not clarified at the legislative level.

Therefore, in order to eliminate this discrepancy and eliminate legal uncertainties surrounding Presidential decrees, it would be appropriate to introduce an amendment or clarification to the Law “On Normative and Legal Acts”. This change will be an important step in clarifying the legal force of Presidential acts, their openness to judicial review, and the level of normativeness.



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A comparative analysis shows that the Presidents of both countries exercise executive power through decrees, but their legal nature and actual force differ significantly. While in the United States, decrees are subject to judicial review even in cases where they are equivalent to law, in Uzbekistan this tool performs a more practical management function. This creates the need for reforms in the level of normativeness, procedure for publication, and legal certainty of Presidential decrees.

When it comes to presidential decrees and resolutions, documents of the President of the Republic of Uzbekistan aimed at establishing, amending, or repealing legal norms as generally binding state instructions are considered normative legal acts and are adopted in the form of decrees and resolutions.

Theoretically speaking, documents of the President of the Republic of Uzbekistan that are of significant social importance, aimed at reforming individual spheres of public life or determining priority areas of state socio-economic policy, establishing (abolishing) state bodies, are adopted in the form of decrees, and other documents of the President of the Republic of Uzbekistan are adopted in the form of resolutions.

So. Documents of the President of the Republic of Uzbekistan on operational and other current issues are adopted in the form of orders.

Non-normative and legal documents of the President of the Republic of Uzbekistan (on personnel issues, citizenship, pardon, granting political asylum, awarding state awards and conferring military and special titles, other individual issues, etc.) can also be adopted in the form of decrees, resolutions and orders of the President of the Republic of Uzbekistan.

Based on the above, the following conclusions can be drawn:

–in both countries, Presidential acts are considered the central link in the mechanism of state governance;

–In Uzbekistan, Presidential acts have more normative and legal force, while in the USA they are used as a means of coordinating political and executive power;

–In Uzbekistan, the legislative system is centralized and codified, while in the USA it is under democratic control, but implemented in different forms;



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- As part of the system of normative and legal acts, the acts of the President of Uzbekistan have binding force along with laws. Through them, state policy, reforms and socio-economic measures are legally strengthened;
- On the other hand, the acts of the President of the USA are mainly of coordinating, political and administrative significance for the activities of the executive branch, and in many cases they provide a mechanism for implementing federal laws;
- A similar aspect is that in both countries, Presidential acts ensure the consistent implementation of state policy and serve to protect national interests;
- The difference is that in Uzbekistan, presidential documents have more normative and legal force, while in the United States they constitute a system of documents of a mainly executive and political nature.

Based on the above, the following are proposed:

- It is necessary to more clearly define and categorize the legal status of decrees in Uzbekistan. As a result, the level and status of decrees in state power will be clear;
- Based on the experience of the United States, it is possible to introduce mechanisms of independent legal control over decrees. We know that in the United States, executive documents of the president (Executive Orders and other instructions) are not absolute. There are three main independent (constitutional, parliamentary and civil society) controls over them;
- In order to ensure the openness and transparency of decrees in our country, it is necessary to strengthen the system of their full publication;
- It is advisable to widely apply judicial practice and comments related to decrees in legal education in our country;
- In order to further improve the process of preparing and adopting documents of the President of Uzbekistan, it would be useful to study international experience, in particular, the practice of the United States;
- It is necessary to strengthen the system of legal monitoring of presidential documents, introduce a special mechanism for assessing the effectiveness of their implementation;



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- It is necessary to expand propaganda work to ensure the openness of information on presidential documents and explain their content, purpose and significance to citizens;
- Based on the experience of the United States, in Uzbekistan, certain areas of executive power can be managed more effectively by using documents in the form of memorandums or directives;
- It is recommended to widely use scientific and legal analysis, expertise and international comparison methods in the process of developing presidential documents.

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