

Housing Right in the Constitution (Comparative Legal Analysis)

Gaziev Shakhrukh Murodalievich

*University of Public Security of the Republic of Uzbekistan, Professor of the Department of "Civil
Legal Sciences" Doctor of Juridical Sciences, Associate Professor*

Abstract. *in this scientific article by the researcher, The construction of thousands of residential buildings over the past five years serves as clear evidence of this. In conclusion, it should be noted that the consistent implementation of the constitutional foundations of housing reforms serves as a guarantee for the realization and provision of citizens' housing rights.*

Key words: *socio-economic changes, Universal Declaration of Human Rights, International Covenant on Economic, Low-incomes.*

It is known that demographic processes and socio-economic changes in the world create global problems in meeting housing needs. In particular, by 2025, 1.5 billion people will need to improve their housing conditions. The demand for housing as a basic human need is constantly growing.

In scientific theory, housing law is included among the "second generation" of human rights. Second-generation rights are the socio-economic and cultural rights that emerged as a result of the struggle of peoples to improve their situation[1].

Housing law is reflected in international legal documents and the constitutions of most countries of the world. In particular, these rights are specifically guaranteed by the Universal Declaration of Human Rights, adopted on December 10, 1948,[2] and the International Covenant on Economic, Social and Cultural Rights, adopted on December 16, 1966[3].

Article 25 of the Universal Declaration of Human Rights states that "Everyone has the right to a standard of living necessary to ensure the health and well-being of himself and his family, including access to clothing, food, housing, medical care, and necessary social services, as well as to security in cases of unemployment, illness, disability, widowhood, old age, or other circumstances beyond their control".

Article 11 of the International Covenant states that "States parties to this Covenant recognize the right of everyone to adequate food, clothing, housing, and a standard of living, including continuous improvement of living conditions for themselves and their families, and must take the necessary measures to ensure the implementation of these rights".

The UN Committee on Economic, Social and Cultural Rights (ICESCR) emphasizes in its report that the scope of an individual's right to housing comprehensively encompasses aspects such as legal provision of the right to decent living, availability of services, material resources, opportunities and infrastructure, affordability and acceptability of service costs and expenses for the majority, habitability, security of tenure, and cultural adequacy.

The European Convention on Human Rights (Article 8), the European Social Charter (Articles 16, 31), and the African Charter on Human and Peoples' Rights (Articles 14, 16, and 18 (1)) also recognize the individual's right to housing.

The right to housing is a constitutional right of every person:

According to L.M. Pchelintseva, the constitutional right to housing is a subjective right of citizens, which, considering its complexity and multifaceted legal nature, is exercised in various legal relations, including general, constitutional, organizational (administrative), property (civil), and other legal relationships[4].

T.I. Pogodina and V.F. Chigir emphasize that the right to housing is realized only if citizens actually possess housing; otherwise, it remains merely an element of legal capacity[5].

Several scholars (E. Luksheva, V. Litovkin, P. Sedugin) include housing rights not only within the scope of social rights but also among the fundamental natural human rights[6,7].

In our view, today the rights of citizens to housing are indeed complex in their legal nature. It would not be incorrect to define housing rights not only as social rights but also as constitutional rights that stand alongside natural personal rights and freedoms, ensuring a decent life for every individual in society.

However, due to the growing need for a safe and comfortable environment in the world, the cost of housing is steadily increasing. This necessitates strengthening the legal guarantees of housing rights.

Professor N. Imomov notes that high housing prices do not always ensure the possibility of exercising this right. For this reason, the state pays special attention to creating conditions for the purchase of housing based on preferential mortgage loans and the construction of individual housing[8].

For example, Article 40 of the Constitution of the Russian Federation states: "Every person has the right to housing. No one may be arbitrarily deprived of their home. State bodies and local self-government bodies encourage housing construction and create conditions for the realization of housing rights. Low-income citizens in need of housing and other citizens specified by law are provided with housing free of charge or at a reduced cost from state, municipal, and other housing funds in accordance with the norms established by law"[9].

Article 25 of the Constitution of the Republic of Kazakhstan states: "Housing is inviolable. Deprivation of housing is not allowed, except by court decision. Entry into, inspection, and search of a dwelling are permitted only in cases and in the manner prescribed by law. In the Republic of Kazakhstan, conditions are created to provide citizens with housing"[10].

Article 48 of the Constitution of the Republic of Belarus stipulates that citizens have the right to housing, this right is ensured through the development of state and private housing stock and assistance to citizens in obtaining housing. Citizens in need of social protection are provided with housing by state and local government bodies free of charge or at a reduced cost in accordance with the legislation, and no one can be arbitrarily deprived of housing[11].

Article 13 of the Universal Declaration of Human Rights stipulates that every person has the right to freedom of movement and choice of residence within the borders of each state. Article 32 of the Constitution of Uzbekistan states that everyone has the right to freedom of movement and choice of residence within the territory of the republic, with the exception of restrictions established by law.

It is worth noting that, according to many scholars and experts around the world, most states in their national constitutions grant their citizens the right to freely move (migrate) from one territory to another within their country of residence. At the same time, they also provide for rules restricting this right.

For example, Article 11 of the German Constitution stipulates that all Germans have the right to freedom of movement within the federal territory. This right may be restricted by law or when there are insufficient means to implement it, resulting in special difficulties for society. Such restrictions may also be necessary to prevent potential events that could threaten the foundations of the federation's free democratic system or any country's existence, to combat epidemic threats, to take

measures against natural disasters or extremely serious accidents, to protect young people from neglect, or to prevent criminal activities[12].

According to the 3rd Amendment to the US Constitution, "military personnel are prohibited from quartering in others' homes during peacetime and even wartime".

Article 14 of the Italian Constitution provides for the "inviolability of housing," noting that this right may be restricted to ensure public safety. Article 47 states that the state encourages mortgage financing for housing[13].

The Constitution of Portugal is particularly noteworthy. Its Article 34 establishes the inviolability of housing, strictly prohibiting anyone from entering another's house at night without consent. Article 65 also guarantees that the state will stimulate private construction, support the construction of social housing by local authorities, create opportunities for citizens to acquire private and rental housing, and implement special programs.

In the new Constitution of Uzbekistan, the right to housing is also provided for in Articles 31, 47, and 79, with the term "housing" appearing 12 times throughout the document [14].

Specifically, Article 31 of the Constitution of Uzbekistan states: "Everyone has the right to inviolability of housing. No one may enter a dwelling against the will of its inhabitants. Entry into the dwelling, as well as seizure and inspection of it, are permitted only in cases and in the manner prescribed by law. A search of a dwelling is permitted only in accordance with the law and on the basis of a court decision".

Article 47 of the Constitution of Uzbekistan states: "Everyone has the right to housing. No one may be deprived of housing without a court decision and in a manner contrary to the law. The owner deprived of housing is provided with preliminary and equivalent compensation for the cost of the housing and the losses incurred in the cases and manner prescribed by law. The State stimulates housing construction and creates conditions for the realization of the right to housing. The procedure for providing housing to socially vulnerable categories of the population is determined by law".

Furthermore, Article 79 of the new Constitution specifically emphasizes that the state creates conditions for the realization of young people's housing rights. This provision corresponds to the Portuguese Constitution (Article 70).

In order to implement the above-mentioned constitutional guarantees, as well as to ensure the housing needs of the Uzbek population, which is close to 38 million people, the housing issue in Uzbekistan has been raised to the level of state policy. From now on, it is advisable to gradually transition to establishing the procedure for providing housing to socially vulnerable categories of the population not by resolutions from a legal point of view, but by law. In particular, based on the provision of Article 48 of the Constitution "The procedure for providing housing to socially vulnerable categories of the population is determined by law," it is advisable to adopt a law "On the Procedure for Providing Housing to Socially Vulnerable Categories of the Population".

Currently, in accordance with the initiative of the President of Uzbekistan Sh. Mirziyoyev, great importance is being placed on implementing targeted programs to provide housing for vulnerable citizens and special categories of socially disadvantaged individuals. The fact that thousands of residential buildings have been constructed over the past five years serves as clear evidence of this effort. In conclusion, it should be noted that the consistent implementation of the constitutional foundations of housing reforms serves as a guarantee for the realization and provision of citizens' housing rights.

List of used literature:

1. Поколения прав человека. <https://m.wikipedia.org>.
2. Права человека (Сборник международных договоров). Т.1. Женева, 1994. – 492 с.

3. “Иқтисодий, ижтимоий ва маданий ҳуқуқлар тўғрисидаги халқаро Пактга қўшилиш ҳақида”ги қарори. Ўзбекистон Республикаси Олий Мажлисининг Ахборотномаси, 1995 йил, №9, 201-модда.
4. Пчелинцева Л.М. Конституция Российской Федерации: Комментарий / Под общ. ред. Б.Н. Топорнина, Ю.М. Батурина, Р.Г. Орехова. М., 1994.
5. Комментарий. Под общ. ред. Б.Н. Топорнина, Ю.М. Батурина, Р.Г. Орехова. Москва, 1994;
6. Проблемы общей теории права и государства: учебник для вузов/под общ.ред. В.Нерсисянц. - Москва: Норма, 1999. - С.339.
7. Седугин П.И. Жилищное право. Учебник. - Москва, 2000. - С. 14-17.
8. Имомов Н. Уй-жой ҳуқуқи. Дарслик. – Тошкент: Чўлпон нашриёти, 2013. – 15 б.
9. Konstituciya Rossiyskoy Federacii. <http://www.constitution.ru>.
10. Konstituciya Respubliki Kazaxstan. <https://kazakhstan.kz>.
11. Konstituciya Respubliki Belarus. <https://president.gov.by>
12. Konstituciya FRG. <https://legalns/cons/germany.pdf>.
13. Конституция Итальянской Республики. Конституции зарубежных государств: Учебное пособие. Сост. проф. В.В.Маклаков. - Москва: Волтерс Клувер, 2003.
14. O‘zbekiston Respublikasi Konstitutsiyasi. Qonunchilik hujjatlari milliy bazasi. www.lex.uz