



End of mission statement

Visit of the Special Rapporteur on the right to adequate housing to Uzbekistan

Mr. Balakrishnan Rajagopal

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I would like to thank the Government of Uzbekistan for inviting me and facilitating my visit with attention, generosity and great effort.

Today, I conclude my 12-day mission. I had the opportunity to visit Tashkent, Jizzak, Zaamin, Sirdarya, Samarkand and Bukhara, and meet with the Secretary of the National Security Council, two Deputy Prime Ministers, senior Government officials at local and regional level, members of the Senate and National Assembly, Ombudspersons, Judges and representatives of other non-judicial complaints procedures.

I am also grateful for the dialogue I had with civil society representatives, lawyers, bloggers and others who report on housing issues, victims of forced evictions, natural disasters and women and children that had to flee their home due to domestic violence. I also observed the physical transformations and demolitions taking place across the country. I am very grateful to all who shared information with me.

Urbanization as a major challenge to the right to adequate housing

Government officials and all people I spoke to share the view that the country has been on a major wave of urbanization during the last several years, but they differ quite a bit in how they assess its success. Several people, in particular victims who have lost their homes due to demolitions, perceive urbanization as a machinery that they have little input in, that often rolls over their rights without a chance for meaningful relief, while most State officials perceive urbanization as a successful effort that has resulted in improved living standards for the population. What is clear to me is that this significant gap in perceptions, must be addressed proactively in order to change the manner urbanization is carried out into a people-centered process and ensure that it is a legitimate effort in human rights and legal terms. The main causes of this perception gap lie in, an organizational and societal culture of consensus and a bias towards positive reporting, lack of meaningful participation in the legal and policy process, limited awareness of constitutional, national and international human rights law by local and regional officials resulting in material breaches of existing laws and lack of effective monitoring and implementation of existing laws at the higher level.

Protection of the right to adequate housing in law and practice

I strongly welcome the new Constitution of Uzbekistan's recognition of the right to adequate housing. The constitution also includes provisions aimed at protecting the home from unlawful interference, the right to property and provides to all persons the right to approach the courts for remedies, which also assures the right to approach international bodies for protection of human rights. These provisions are very welcome guarantees for the protection of human rights, and I applaud them. However, these provisions should not give the impression that these rights are realized in practice. There is a large gap between law on paper and law in action. Of course, the new Constitution was adopted only last year and many laws regulating the housing sector have been passed only very recently, and thus there can be a time lag in implementation. But it means that the negative consequences of the rapid urbanization, including forced evictions and arbitrary expropriations, which started many years earlier, and speeded up since 2017, remain with us, and that many of its victims have not yet obtained relief from these new laws and the Constitution. As of today, the right to adequate housing remains mostly a paper tiger against violations by the state or powerful corporate actors including developers.

I also strongly encourage the Government of Uzbekistan to ratify as soon as possible the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which will allow the examination of individual complaints. This will greatly enhance the capacity and understanding of the judiciary.

Lack of effective remedies through courts and non-judicial complaints mechanisms

The courts in the country do not have a strong record of enforcing the new Constitution and national laws aimed at protecting the right to adequate housing. The culture of seeking remedies through courts is itself very slowly developing, while access to justice is also limited by the small size of the legal profession, and limited legal aid and legal representation for vulnerable individuals. While there are many non-judicial complaints mechanism available for residents, such as the Ombudspersons Office, the General Prosecutors Office or the People's Audience of the President, I have met too many individuals who submitted complaints to those bodies complaints without having their housing rights matters solved in a manner that would be satisfactory from a human rights point of view. When individuals file complaints to these mechanisms, they receive acknowledgments but rarely are the cases actually followed-up and resolved. Only in few instances these mechanism have been able to ensure effective and timely relief. In effect, all this adds up to having no meaningful and effective remedies when the right to adequate housing is violated.

Improving judicial independence

Judicial independence remains a challenge. An overwhelming majority of cases involving developers and residents seem to be decided in favor of developers, especially by appellate courts. The perception among the public is that the judiciary is not independent. Despite the recent reforms to improve the independence of the judiciary including the shifting of appointments to the Supreme Judicial Council, there is a culture of compliance with perceived State interests in the judiciary, which used to be under the control of the Ministry of Justice until some years ago. I am disturbed to learn also about legal provisions such as article 231(1) of the Criminal Code, which permits the imprisonment of judges for rendering "unjust decisions". I am aware that for example one judge has been sentenced to four years of imprisonment who appears to have ruled too many times against state authorities. These provisions are contrary to the independent functioning of courts – if judges make mistakes,

whether the outcome is seen as fair or not - appellate courts are supposed to correct them. In my view this provision in the Criminal Code should be removed as soon as possible.

Limited awareness of constitutional and human rights law

The legal protections offered by the constitution are useless when they are not fully known, understood and demanded by the population at large, as well as the officials of the State, including at the Mahalla level. Rights have to be demanded to become meaningful. Awareness of human rights law and the new constitutional protections should be further strengthened at all levels of Government, in the judiciary and for the general public so they become users, and not just recipients of rights.

Establish effective grievance mechanisms and judicial oversight over corporate actors

Public and judicial oversight over corporate actors in the housing sector must be further strengthened. While Uzbekistan has many complaints bodies, none of them appear to have the competence to address human rights abuses by corporate actors such as developers in conformity with the UN Guiding Principles on Business and Human Rights. In this context I welcome that the Ministry of Construction and Housing has developed a rating of all construction companies to assess the quality of the housing they build. It is important that the rating of construction companies is published and widely shared through media, and incorporates also assessments of construction companies by persons acquiring housing, their respect of labor and environmental standards, and their record in relation to forced evictions and in ensuring fair and timely compensation in case of expropriation.

Policy and institutional issues regarding housing

Uzbekistan is indeed facing significant population growth, with an annual estimated population growth of almost a million people. There is, therefore, a strong case to increase the supply of new housing. However, a housing policy based on supply-side interventions alone is unlikely to yield results that will guarantee the right to adequate housing. Demand side interventions in housing such as affordable mortgage rates without annual rate variation (in Uzbekistan, rates vary), support for real income levels through regional economic development strategies that link housing with job creation, are all important. These factors are not emphasized in the current approach to housing in Uzbekistan. There is an excessive faith in supply-side solutions which benefits only contractors as they stand to benefit from all the new construction. There is as well a serious risk that excessive housing construction may leave housing unoccupied, producing 'ghost cities' as witnessed in some countries.

Mahallas are at the front lines of ensuring the right to adequate housing especially for vulnerable groups, and can potentially raise legal and human rights awareness at this critical moment. I recommend the inclusion of an additional member to the 'Mahalla Seven' who can be a community justice worker, combining paralegal work, with specific focus on housing and land acquisition.

Improving legal tenant protection in rental accommodation

While most residents in Uzbekistan are homeowners, the percentage of the population living in rental accommodation in towns is increasing. There is a need for a tenant protection law to ensure that renters enjoy security of tenure and are not subjected to evictions without cause, to provide them with legal representation in eviction procedures before courts, to protect them from unfair or arbitrary rent increases, and to ensure that the homes rented out are properly maintained and meet adequacy standards.

In this context, appropriate regulation of platforms offering short term rentals such as Air BnB or booking.com is also necessary, since excessive penetration of these rental companies can have an adverse impact on availability of affordable housing in attractive city locations for the population. Since Bukhara and Samarkand have plans to rapidly increase the number of tourists, it is important that they mitigate the adverse consequences of short-term rentals through appropriate regulation.

Displacement and forced evictions in cultural heritage sites

There is worrying trend that homes of local residents in city centers are turned into tourist accommodation or demolished for new museums, in particular in cities such as Samarkand and Bukhara which contain a vast treasure of cultural heritage of mankind. Economic and development-induced displacement of the local population including destruction of retail shops or small-scale industry producing traditional heritage products is a concern undermining livelihood opportunities of local communities that directly affects the right to adequate housing. It is my impression that UNESCO and local authorities have given insufficient attention to the right to adequate housing of the people living close to or within heritage sites, and failed to prevent demolishing of housing stock, forced evictions and irregular construction within protected areas. This is of deep concern, as it appears that UNESCO and its World Heritage Committee have failed to ensure that international human rights law is respected in protected areas in Uzbekistan, while they have decided to host the next UNESCO meeting in Samarkand in 2025. I urge UNESCO to rethink carefully what guarantees and concrete measures it needs to see to hold this meeting.

Demolitions and access to alternative housing

In most cases, demolitions of homes ordered by the local authorities proceeds too rapidly, without adequate notice – sometimes only for a few days – and proceeds in a manner which is not consistent with procedural norms such as avoiding demolitions when personal property is still inside the house or having an authorized government official present during demolition. In addition, demolitions have been conducted in cases even when individuals have obtained orders protecting their homes from courts. Demolitions are also conducted while alternative housing has not been agreed to by the owners while they are in the process of contesting demolition decisions. In one case that was deeply shocking I spoke to an old couple, whose house has been reduced to rubble in Samarkand, and they continue to live in the midst of that rubble. With tears in their eyes, they struggled to describe their trauma, and humiliation. Such cases are examples of a broader problems: the machinery of urbanization is too fast and relentless and shows no mercy to even older persons. This is a serious and grave violation of the right to adequate housing and other rights, which must be remedied rapidly. It also shows that forced evictions and demolitions need to be better governed by laws consistent with human rights that are actually enforced.

Expropriation for commercial purposes camouflaged as public need

The 2022 law on expropriation makes it clear that it applies only to long possessory rights, and not to land plots owned by individuals. The law also specifies that expropriation for public needs includes public uses or benefits, but does not allow the expropriation of land for commercial purposes. Despite this strict law, many expropriations and housing demolitions carried out in Uzbekistan raise questions about whether the land is expropriated for private commercial interests of developers and construction companies or for public benefit.

The replacement of substandard housing stock with new housing may under certain circumstances be considered as a legitimate public need. Such new housing must, however, be social housing and not luxury housing for upper income groups. And if entire neighborhoods are demolished and new housing or commercial infrastructure is built on the same land at high profit without inclusion of any housing units that would be affordable for the people who previously lived in that area, it is highly questionable if such housing demolitions and expropriation can be considered justifiable under human rights law. It is certainly not justifiable under the 2022 law. I would like to recall here that the right to adequate housing, now recognized in the Constitution, may only be subject to limitations that are in conformity with the nature of this right and solely for the purpose of promoting the general welfare of the society.

Uzbekistan should therefore consider ceasing expropriations that are solely or primarily for commercial purposes, and if such expropriation must be done for affordable housing, amend the 2022 law to permit this. The 2022 law cannot be misused or misinterpreted to cover any urban development project, including those that contradict the very nature of the right to adequate housing.

Land rights

While private property including in land, is protected in the Constitution, land by itself is not. Land is more than property – while property is about monetary value, land is about more than that and includes cultural and personal meaning and value, as well as its contribution to the realization of other human rights including the right to food. Many people of Uzbekistan own land – close to 48% in rural areas. When their lands are taken along with their homes, for economic development and urbanization, they do not enjoy a guarantee of land-for-land as compensation, nor is there an estimation of the losses of a non-monetary nature. The Constitution refers to ‘losses’ while calculating compensation in its article 47, which should plausibly include non-material losses. There is a need to clarify this and recognize and protect land rights in law.

The construction of new housing is also confronted with the shortage of adequate land and creative alternatives for land and housing policy. I would encourage city authorities and Mahallas to explore the use of land banks or land pooling arrangements. Community land trusts or other public, non-governmental public/collective ownership or management of land, should be recognized by law. Non-profit housing cooperatives and associations must be recognized to develop housing for themselves.

Issues with Compensation

The 2022 law requires that all expropriation for public needs must be carried out with the notarized written consent of the owner and must include compensation, which means reimbursement for losses, in monetary or other forms. However, in practice, many individuals were arbitrarily evicted even before the 2023 Constitution and the 2022 law were enacted, and they continue to struggle to assert their right to compensation. While some have been offered new homes in apartment blocks, these may be located far from work, schools, and small vegetable gardens that they previously relied on. Additionally, these individuals face difficulties recovering losses incurred during the lengthy battle for compensation.

As the government plans to regularize housing that was irregularly built before 2018, it must also ensure justice for those who were inadequately expropriated and compensated in the past. While the draft regularization law may benefit many homeowners, it could also result

in impunity for those in the construction sector who failed to uphold building standards, arbitrarily evicted people, and failed to compensate those who lost their homes. In some cases, promised new homes were never constructed or completed, leaving those evicted waiting for years or forced to pay high rents.

Furthermore, repeatedly passing laws to regularize irregularly constructed housing may set a harmful precedent, creating the expectation that one can ignore the law and wait for the next amnesty to avoid consequences.

The law on compensation also fails to adequately address non-material and emotional losses that often accompany the loss and demolition of homes. For children, such experiences can be particularly traumatic. Using market value as the basis for compensation is insufficient to account for these intangible losses. Additionally, there are concerns that the valuation of land and homes is not always conducted by companies that are sufficiently independent from government and corporate interests, which may seek to minimize compensation payments.

I recommend that the State engages in a dialogue with civil society representatives on issues relating to participatory urban planning, aimed at preventing forced evictions, arbitrary housing demolitions, improving access to justice in such matters and ensuring adequate and fair compensation in accordance with national and international law standards that could be facilitated by UN agencies and the Office of the High Commissioner for Human Rights.

Right to information

Uzbekistan recognizes the right to information in the context of the right to a healthy environment in its Constitution, and the Law on Guarantees and Freedom of Access to Information provides this right as well in all other spheres. This is highly laudable and I urge the government of Uzbekistan to build on this and become a party to the Aarhus Convention to further strengthen this commitment. The right to information is a fundamental requirement for transparency and an informed citizenry which can only make democracy work and bring accountability for human rights violations.

Lack of participatory town planning

Uzbekistan is still largely characterized by a top-down approach to town planning, where urban planners, local government officials and construction companies implement projects that have been developed by well-intended experts behind closed doors, but with very little input by the population living in the area in the design, adjustment and implementation of urban renewal projects. For most cities, Masterplans are still lacking which has contributed as well to haphazard urban development. The intended development of 68 masterplans for most urban settlements offers an opportunity to ensure that such plans and urban renewal projects included in them are developed in a participatory manner. In this context, I want to clarify that digitalization is not the same as participation: making plans accessible online is not enough. Instead, community level meetings must be held, including at the Mahalla level and opportunity to ask questions and provide meaningful input must be recognized.

I am convinced that urban upgrading that keeps historic layouts and socio-economic fabrics intact while providing additional income possibilities is possible in Uzbekistan, as I have personally witnessed in the Gulbazaar Mahalla in Tashkent. Careful and participatory

urban development in all stages of design and implementation should however not be only a model for areas that have a high potential for tourism as in Gulbazaar.

Human rights defenders, victims and civic space

I have been reassured by the Government of Uzbekistan that no one in Government or civil society who provided information to me will be subjected to any intimidation or reprisal. However, civic space in Uzbekistan continues to be restricted, and many individuals that I met with expressed fear that they may be intimidated or described recent instances where they were indeed harassed by the authorities for complaining about or reporting on housing rights issues.

I regret that I was not able to visit a blogger and housing rights advocate, currently interned in a psychiatric institution and reportedly subjected to non-consensual psychotropic drug treatment. I call on the Government of Uzbekistan for an independent assessment of her health condition by international medical experts and ensure that she has unhindered regular access to her lawyer and also be allowed to visit close family members since she is not convicted of any crime.

Social housing and the mortgage system for low-income households

The privatization of public housing after independence has resulted in a situation in which there is a lack of social housing available for the most vulnerable groups. It is estimated that less than 0.5 % of all households live today in public housing. The public housing stock in many cities remains too low and consideration should be given to increasing this form of housing through non-state, public forms of housing including housing cooperatives.

The existing subsidies and 'soft-loan' based mortgage schemes expose mortgage holders to significant risk, as the interest rates on subsidized loans are not fixed and can fluctuate. In adverse financial conditions, this can render housing unaffordable, lead to unsustainable private debt, and result in a wave of evictions. This issue has been observed worldwide, particularly as housing markets become more financialized, as seen in many Western countries. Uzbekistan should avoid following this model. Greater attention must be given to regulating mortgage markets now to better protect mortgage holders, especially against the risk of eviction.

Women and other groups

I also met a number of women victims of domestic violence living in shelters, often with their children. They have been forced to flee their homes as their husbands became violent, although they were also registered to stay in the same homes. Family law should be amended, consistent with the aim of the new 2023 Law on domestic violence, to provide for possession rights to women victims of domestic violence and their children, in case of filing of a complaint of domestic violence to the police. The husbands, rather than the women and their children, must leave their homes but must be provided with alternative housing by the authorities if they require it. Women own only 28% of housing, and according to the ILO only 46.6 percent of them participated in the labor market in 2022.

While I do not have time to comment about other vulnerable groups, let me say briefly that I am concerned about the condition of the Luli minority, which remains marginalized and often spatially segregated. Persons with disabilities face enormous barriers, not only in terms of physical access to buildings and public spaces, but also in terms of access to employment which affects housing access.

Conclusion

I will provide additional details and recommendations on all the issues that emerged during my visit, including those I mentioned, in my full report to the UN Human Rights Council, which I will present in March 2025. In the meantime, I urge the government of Uzbekistan to fully implement a rights-based approach to all of the above-mentioned housing issues, making sure that the new rights and the laws become meaningful for all, including the vulnerable and marginalized individuals and communities.

I would like to conclude by reiterating my heartfelt appreciation to all people who took the time to share their views with me during my visit. I see the new Uzbekistan as a remarkable story of transition from a largely state-controlled society and economy with a closed system, to a more open system with more freedom and exercise of rights. I have great admiration and respect for the cultural and social traditions and heritage of the people of this this country. Uzbekistan can be a major anchor for peace, human rights and justice in this troubled world, not just for Central Asia, but for the entire world. I wish the people and the leaders of Uzbekistan my warmest wishes and greetings as I conclude this visit.