

## The Concept Of "Housing", Its Historical, Scientific-Theoretical and Legal Aspects

Shukurov Umid Sokhibjanovich

Academy of the Armed Forces of the Republic of Uzbekistan,  
Uzbekistan



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### ABSTRACT

**Objective:** The objective of this study is to analyze the concept of "housing" through its historical, scientific-theoretical, and legal dimensions, with a focus on its socio-historical development and its interpretation within housing legislation. **Method:** The research employs a multidisciplinary approach, combining historical analysis, a review of legal frameworks, and theoretical perspectives from relevant scientific literature to provide a comprehensive understanding of housing as a socio-legal phenomenon. **Results:** The findings highlight the evolution of housing as a concept influenced by social, cultural, and economic factors, demonstrating its centrality to human welfare and legal systems. The study further identifies critical gaps and ambiguities in housing legislation and offers analytical insights into the implications of these shortcomings. **Novelty:** This work contributes to the academic discourse by synthesizing diverse perspectives on housing and proposing a unified framework for its conceptualization, emphasizing its dual role as both a human right and a legal construct. The study provides actionable recommendations for enhancing housing policies and legislative clarity, aligning them with contemporary societal needs.

## INTRODUCTION

*My greatest wish is that if every person in our homeland has their own "small homeland" - a home, then both our people and the Creator will be pleased with us.*  
President of the Republic of Uzbekistan Sh.M.Mirziyoyev.

One of the most pressing problems that our country has faced since gaining independence has been the problems in the socio-economic spheres that have accumulated over many years. The main reason for the emergence of these problems was the one-sided approach to property in the former Soviet system, which gave absolute priority to the hegemony of state property and its protection, and limited the rights of citizens to private property, considering only certain objects and means as personal property.

In particular, under the former Soviet regime, only certain personal items and consumer goods used in daily life, auxiliary households, housing and labor savings could be the personal property of citizens. Also, the housing in which citizens lived was under state control against their will, citizens could not own more than one housing unit, and the bulk of housing belonged to the state housing fund [1].

On the eve of the independence of our country and since its early days, great works and reforms have been carried out to define the rights of citizens to private property and ensure its legal protection, especially the realization of the property rights of the population to their land and housing. The practice of allocating land for private housing and homesteads to residents living in the village, as well as removing the housing owned by the city residents from state ownership, i.e., the process of privatization, was launched. Several laws have been adopted guaranteeing the rights of our citizens regarding private property. In particular, the Resolution of the President of the Uzbek SSR of August 17, 1989 "On providing every family living in the countryside with a household plot and creating all conditions for their individual housing construction", the Law of the Republic of Uzbekistan of October 31, 1990 on Property, 1991 These include the Law on Denationalization and Privatization of November 19, 1992, the Law on Privatization of the State Housing Fund of the Republic of Uzbekistan of May 7, 1993, the General and Special Parts of the Civil Code of the Republic of Uzbekistan, and the Housing Code of the Republic of Uzbekistan. In this regard, the Law of 8 May 1992 The adoption of our independent Constitution, our Basic Law and our dictionary, which our people have been eagerly awaiting, on December 11, was a great and unforgettable historical event. Article 53 of our Constitution states that the basis of the economy of Uzbekistan, aimed at the development of market relations as the economic basis of society, is the organization of various forms of property, the state, taking into account the primacy of consumer rights, freedom of economic activity, entrepreneurship and the right to labor, the equality of all forms of property and legal It was established that private property, like other forms of property, is inviolable and protected by the state , and that the owner may be deprived of his property only in cases and in accordance with the procedure provided for by law [2].

It is known from the history of mankind that since the emergence of human society, caves, dugouts, huts and similar places have served as places of residence. Over time, as a result of the stratification of human society, significant differences in the distribution of property, and the development of socialization, families learned to build separate personal homes for their own protection, security, and sustenance, and the homes they built became places that satisfied basic vital needs.

## **RESEARCH METHOD**

The research methodology employed in the study above is a historical-legal analysis combined with a normative approach. Historical analysis was used to examine the socio-economic and legal developments surrounding housing, tracing the evolution of property rights from the Soviet period to the present era of Uzbekistan's independence. The normative approach focused on analyzing key legislative acts, including the Constitution, civil codes, housing laws, and presidential decrees, to understand the framework governing private property rights, particularly in the context of housing. By synthesizing these methods, the study identified the transformation of housing policies

and their implications for socio-economic reforms, emphasizing the alignment of legal structures with citizens' property rights and market-oriented principles.

## RESULTS AND DISCUSSION

In ancient Egypt, Rome, and Greece, along with simple houses and huts of slaves, slave owners built home fortresses and multi-room fortresses. During the Renaissance, in Italian cities, city plazas, villas, and garden-park complexes of nobles had a unique architectural system and style (Doge's Palace, etc.). The English housing estates that developed in the late 19th and early 20th centuries had a significant impact on housing construction in other European countries. In the 20th century, new building materials (metal, reinforced concrete, glass, etc.) were introduced into modern housing construction in European countries that developed in the 20th century. The remains of the first settlements in Uzbekistan were found in city-fortresses and fortresses such as Zamonbaba, Jarkotan, Zhanboskalā, Dalvarzintepa, Termez, and Tuprokkalā. Wood, clay, and adobe were used in the construction. The dwellings of the 6th-8th centuries in places such as Kesh, Sogd, Tokharistan, Chaghaniyan, and Shosh were built mainly on irrigated lands. The residential architecture built during the reign of Amir Temur is distinguished by its luxury, high level of engineering, and richness of decoration. In ancient cities such as Samarkand, Bukhara, Khiva, Shakhrisabz, Kokand, and Tashkent, residential models dating mainly to the 17th-19th centuries have been preserved, in which unique shapes and forms, proportions in height and width, the use of local building materials, and methods of blocking the scorching sun were all taken into account. After the conquest of Central Asia by Tsarist Russia, along with traditional housing, one- and two-story houses began to be built in the European style in Tashkent, Samarkand, Kagon, Andijan, Skobelev (Fergana), Kokand and other cities. At the beginning of the 20th century, new inexpensive simple housing for workers began to be built in the workers' town on Temir Yul Street (formerly Tezikov Park) in Tashkent. Since 1937, the construction of four- and five-story residential buildings under the control of housing departments, and later nine-story (since 1966) prefabricated reinforced concrete housing, has been booming. Since the 1970s, new types of projects in the same style have been created by design institutes. Since the 1980s, experimental housing with sixteen floors and higher has been built [3].

After independence, new construction criteria and rules were adopted in residential architecture. Along with state-funded multi-storey and cottage housing, the construction of individual private houses, including luxury ("elite") houses, became widespread. In residential buildings, national and "European" styles are combined, and new construction technologies and decorative elements are widely used [4].

N.F. Imomov, drawing attention to the historical aspects of the concept of housing, states: "Housing is a place of residence, a place of shelter, residential buildings. The house where the family lives, the environment in which the family conducts its domestic life. Housing appeared in primitive times along with cooking and dressing" [5].

According to Y.K. Tolstoy, the need to satisfy the need for housing accompanies a person throughout his life, from his first cry to his last breath[6].

In science and practice, approaches to the concept of residence and its definition are not the same.

There are controversial debates among theoreticians regarding the concept of "dwelling place" and the concept of "residential building", which can be divided into two groups.

A group of scholars, including B.N. Topornina, Y.M. Baturina, R.G. Orekhova, and V.D. Karpovich, consider the concept of "dwelling place" as a "constitutional" concept to be much broader than the concept of "residential building" [7].

The second group of scientists (Sedugin P.I., Litovkin V.N., Bogdanov E.V., Pchelintseva L.M., Titov A.A., M.Yu., Tikhomirova. Filimonov S.L., Sheshko G.F.) clarify the concept of "dwelling place" through the concept of "residential building" that actually exists and recognize a residential building as a place specifically intended for permanent residence of people[8].

According to I.L. Petrukhin, the concept of "dwelling place" includes: living rooms, common areas (corridor, bathroom, toilet, balcony, veranda), basement, attic, kitchen, utility rooms, buildings for household purposes, hotel, sanatorium, recreation rooms. It includes a house, a private room in a hospital, an attic, hunting or garden. Also, vehicles owned and used by private property or citizens; private garages, regardless of their location; separate compartments in train cars or separate cabins on ships are legally equated to a residential building (room). Even a service (office) building (room) adapted for temporary residence is included in the concept of a dwelling [9].

P.I. Sedugin states that the term "dwelling" usually means a special structure or room intended specifically for people to live in, including a dwelling, apartment, room, other living space and related auxiliary areas (kitchen, hallway, bathroom, corridor, etc.)[10].

, it is difficult to call shelter hotels, special homes for the elderly, veterans, and the disabled a person's legal place of residence, since these specialized institutions perform certain social functions in relation to certain categories of citizens, and people of this category live in such institutions not permanently, but temporarily, and the place where they live is not a place of residence in the full sense of the word [11].

In our opinion, L.V. Sotnikova's opinion on this matter is reasonable. Because one of the important legal features of a residence is that it is intended for permanent residence, as we mentioned above.

In the national legislation of many countries, the concept of a dwelling is defined as a special place intended for a specific residence, with certain characteristics and features, meeting fire, technical and sanitary requirements.

In the dictionary, the concept of residence is a place of residence, shelter, residential buildings. The house where the family lives is defined as the environment in which the household life of the family takes place[12].

Article 9 of the Housing Code of the Republic of Uzbekistan stipulates that residential premises are premises intended for permanent residence of citizens, meet established sanitary, fire-fighting, and technical requirements, and are also intended for use as special housing in accordance with the established procedure (dormitories, temporary housing stock houses, boarding houses for the disabled, veterans, single elderly people, as well as orphanages and other special-purpose houses)[13].

In our opinion, the definition of the concept of "dwelling place" in this article of the Code is expressed under the concept of "residential building (house)" and the features (conditions) specific to "residential building (house)" are indicated. The "places intended for use as special houses (dormitories, temporary housing fund houses, boarding houses for the disabled, veterans, single elderly people, as well as orphanages and other special-purpose houses)" mentioned in this article can be "dwelling place" in the general sense of the word, but cannot be "residential building (house)" according to their purpose and features. This is because these special houses, as state institutions, perform a certain social function in society, and citizens stay in such institutions not "permanently" but for a temporary period. In turn, the definitions of the concepts of "residence" and "institutions" (including state institutions) are determined by civil legislation. In particular, Article 21, Part 1 of the Civil Code of the Republic of Uzbekistan states that the place of permanent or primary residence of a citizen is considered his place of residence, and Article 76 of the Code establishes that an organization established by the owner to carry out management, socio-cultural tasks or other non-commercial tasks and fully or partially financially supported is considered an institution [14]. Thus, one of the main features of a "residential building (house)" is its intended purpose for permanent residence. However, "private houses" performing the above social function are included in the category of residential facilities.

Instead, in our opinion, these "special houses" cannot be the object of the right of citizens to housing. On the contrary, "residential building (house)" can be the object of citizens' right to housing.

As confirmation of this, Article 3 of the Urban Planning Code of the Republic of Uzbekistan includes buildings, residential facilities, and individual housing as basic concepts, according to which:

Building - a construction system consisting of structures serving as supports, barriers, or both, depending on its functional purpose, intended for people to live or stay and for carrying out various types of production processes;

Residential facilities - buildings intended for people to live in, houses (apartments) for permanent residence, as well as dormitories, hotels, boarding schools, and nursing homes for temporary residence;

Individual housing - one or more residential buildings located on one land plot, intended for individual housing construction and household management, and related household and farm buildings and yard structures [15].

If we look closely, in our opinion, the concept of "residential facilities" in this article of the Urban Planning Code combines three independent concepts: "buildings intended

for human habitation", "dwellings (apartments) for permanent residence" and "dormitories, hotels, boarding schools, nursing homes for temporary residence".

In this context, it would be appropriate to propose a legal definition of the concepts of "yard" and "building" in the article of this Code entitled "Basic Concepts".

Definition of the European judicial system:

The concept of residence is not limited to the definition of a residence acquired or occupied in accordance with the procedure established by law or on other legal grounds; residence is not a concept classified by national legislation, but an "autonomous" concept;

maintaining the right to a residence and the presence of registration in such a residence does not mean that it is a real place of residence;

The concept of residence includes criteria such as the existence of sufficiently continuous ties with a specific place of residence (or residence), the absence of the person's intention to purchase another home or apartment, the purpose being to live, and the long-term orientation[16].

In our opinion, the European judicial system, through the above interpretation of the concept of residence, has once again acknowledged its commitment to the ideas of human rights and humanism that emerged in the region under the influence of its long-standing historical development factors and legal theories. Therefore, European courts primarily prioritize human rights and interests in housing disputes between state administrative bodies and citizens.

In the housing legislation of a number of CIS countries, legal definitions of the concept of "residence" have been given.

In particular, Article 4 of the Law of the Republic of Moldova on Housing defines a dwelling as a structure or a separate building consisting of one or more living rooms, as well as auxiliary premises (kitchen, bathroom, etc.) that meet the living needs of one or more persons (families) and meet the minimum requirements for housing established by regulatory legal acts. At the same time, the law establishes that individual residential houses, apartments in residential buildings, dormitories and buildings for other purposes (rooms, houses) are recognized as dwellings [17].

Article 15 of the Housing Code of the Russian Federation defines residential buildings as buildings that are real estate and are suitable for permanent residence of citizens (meeting established sanitary and technical rules and standards, other requirements of legislation) [18].

For this purpose, we consider it necessary to revise the definition of the concept of "dwelling" in Article 9 of the Housing Code of the Republic of Uzbekistan, taking into account the complex characteristics of modern residential buildings under construction, to provide a separate legal definition for the concepts of special houses (dwellings) for social purposes, and to supplement the Housing Code with a separate article defining such basic concepts as "houses", "part of a house", "service house", "apartment", "part of an apartment", "service apartment", "multi-apartment houses", "apartments in multi-apartment houses", "non-residential premises in multi-apartment houses", "non-

residential premises", "special houses", "dormitory", "family dormitory", "residential area".

Based on the above, we can conclude that the concept of housing is a broad concept that encompasses historical, social, philosophical and legal aspects, it has gone through many stages of evolutionary development, many definitions (interpretations) have been given and are being given in the families of the judicial and legal systems that have been historically formed and are ruling in the world, there is no unanimous approach among scientists and practitioners, and discussions are still ongoing. In legal practice, housing is understood not as any place of residence, but as a residential building with specific characteristics (safety, sanitation, fire protection, technical and other requirements) intended for permanent residence of citizens in accordance with the law. In our opinion, it would be appropriate to adopt a new edition of the current Housing Code, given the multifaceted and complex nature of housing relations today and the fact that it does not fully meet the requirements of modern market conditions and the new socio-economic reforms being implemented.

## CONCLUSION

**Fundamental Finding :** The fundamental finding of this study is that the concept of housing is a multifaceted construct encompassing historical, social, philosophical, and legal dimensions, with its interpretation evolving over time to address diverse societal needs and legal frameworks. **Implication :** The analysis underscores the necessity of revising and modernizing the Housing Code of the Republic of Uzbekistan to better align with contemporary socio-economic reforms, market dynamics, and international best practices in housing legislation. This would enhance the protection of citizens' housing rights and foster the development of sustainable residential infrastructure. **Limitation :** While the study provides a comprehensive historical and legal perspective, it is limited by its reliance on secondary sources and the absence of empirical data reflecting citizens' lived experiences and perceptions of housing policies. **Future Research :** Further investigation is needed to assess the practical impacts of housing legislation on various population groups, explore cross-country comparative analyses, and examine the integration of innovative technologies and sustainable practices in housing development to inform future policy-making.

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\* Shukurov Umid Sokhibjanovich (Corresponden Author)

Academy of the Armed Forces of the Republic of Uzbekistan, Uzbekistan

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