

# **Accessing Economic and Social Rights in Uzbekistan:** An Analysis of Selected Laws and Practices

Executive Summary

Composed of 60 eminent judges and lawyers from all regions of the world, the International Commission of Jurists promotes and protects human rights through the Rule of Law, by using its unique legal expertise to develop and strengthen national and international justice systems.

Established in 1952 and active on the five continents, the ICJ aims to ensure the progressive development and effective implementation of international human rights and international humanitarian law; secure the realization of civil, cultural, economic, political and social rights; safeguard the separation of powers; and guarantee the independence of the judiciary and legal profession.

® Accessing Economic and Social Rights in Uzbekistan: An Analysis of Selected Laws and Practices — Executive Summary

© Copyright International Commission of Jurists, 2021

The ICJ permits free reproduction of extracts from any of its publications provided that due acknowledgment is given and a copy of the publication carrying the extract is sent to its headquarters at the following address:

**International Commission of Jurists**

P.O. Box 91  
Rue des Buis 3  
1211 Geneva 1  
Switzerland

[www.icj.org](http://www.icj.org)

This publication was produced with the financial support of the European Union. Its contents are the sole responsibility of the International Commission of Jurists (ICJ) and do not necessarily reflect the views of the European Union.



# **Accessing Economic and Social Rights in Uzbekistan:** An Analysis of Selected Laws and Practices

[Executive Summary](#)

# INTRODUCTION

---

Economic, social and cultural rights (ESC rights) like civil and political rights, are indispensable for the preservation of human dignity.<sup>1</sup> As agreed by States in Vienna in 1993, civil and political rights and economic, social and cultural rights must be treated equally, as “all human rights are universal, indivisible and interdependent and interrelated”.<sup>2</sup> As the UN Office of the High Commissioner on Human Rights has explained, there is no fundamental difference in nature between civil and political and ESC.<sup>3</sup>

Treaties such as the International Covenant on Economic, Social and Cultural Rights (ICESCR) are binding on the States that are party to them and States thereby undertake to implement them in good faith.<sup>4</sup> All States parties, including the Republic of Uzbekistan, have internationally binding obligations to protect and secure these rights, including the rights to: healthcare; housing; food; water and sanitation; education; work; and social security.<sup>5</sup> Thus, these are not benefits that depend on the good will of States, but rights that must be guaranteed by States which have undertaken to implement these international obligations.

The ICESCR is one of the principal universal treaties in this field — other treaties to which Uzbekistan is a party<sup>6</sup> provide particular guarantees for the ESC rights of persons from particular groups, including women, children and persons with disabilities.<sup>7</sup> Under this and other human rights treaties, States implement their international legal obligations through their national legal systems: laws, policies and practices, on matters including healthcare, housing, food and nutrition, education or labour.<sup>8</sup>

This report considers some aspects of Uzbekistan’s implementation of these obligations through laws and policies as well as through access to justice and remedies for those who allege that their ESC rights have been violated. Analysing the general legal framework for protection of these rights, it considers in more detail particular challenges in Uzbekistan, in respect of the right to adequate housing, the right to health, and rights in the workplace.

For rights to be effective in practice, they must not only be provided for in legislation and policy, but also be accessible to all, on an equal basis.<sup>9</sup> Accessibility of rights requires access to information, and the dismantling of physical, administrative, economic or cultural barriers to accessing rights, as well as access to justice and effective

---

<sup>1</sup> Universal Declaration of Human Rights (UDHR), United Nations General Assembly (General Assembly Resolution 217 A), 10 December 1948, article 22.

<sup>2</sup> Vienna Declaration and Programme of Action, Adopted by the World Conference on Human Rights in Vienna on 25 June 1993, article 5.

<sup>3</sup> OHCHR, Frequently Asked Questions on Economic, Social and Cultural Rights, Fact Sheet No. 33, <https://www.ohchr.org/Documents/Publications/FactSheet33en.pdf>, p. 8.

<sup>4</sup> Vienna Convention on the Law of Treaties, concluded at Vienna on 23 May 1969, article 26.

<sup>5</sup> International Covenant on Economic, Social and Cultural Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 3 January 1976, article 2.

<sup>6</sup> Uzbekistan acceded to the ICESCR in 1995 (see [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=189&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=189&Lang=EN)).

<sup>7</sup> International Covenant on Civil and Political Rights (acceded to by Uzbekistan on 28 September 1995); the Convention on the Elimination of Discrimination against Women (acceded to by Uzbekistan on 19 July 1995); the Convention on the Rights of the Child (acceded to by Uzbekistan on 29 June 1994); the International Convention on the Elimination of All Forms of Racial Discrimination (acceded to by Uzbekistan on 28 September 1995); the Convention on the Rights of Persons with Disabilities (signed by Uzbekistan on 27 February 2009); the International Convention on the Rights of Migrant Workers and of the Members of Their Families (not acceded to by Uzbekistan).

<sup>8</sup> ICESCR, article 2.

<sup>9</sup> E.g. UDHR, article 7; International Covenant on Civil and Political Rights, article 26.

remedies (including judicial remedies) to enforce these rights.<sup>10</sup> The obligation to protect human rights under international law therefore includes an integral duty to provide those who claim to be victims of a violation with equal and effective access to justice and effective remedies<sup>11</sup>, including reparation.<sup>12</sup>

Moreover, domestic law must, to the extent possible, be interpreted and applied consistently with international human rights obligations.<sup>13</sup> When there is a conflict between domestic law—including the Constitution, legislative enactments or administrative orders—and international law, a State cannot invoke its domestic law as justification for its failure to perform its international legal obligations.<sup>14</sup> Indeed this approach is also consistent with the Uzbekistan Constitution which recognizes the “priority of the generally accepted norms of the international law” in its Preamble.

Accepting the position set out by the Vienna Convention on the Law of Treaties (VCLT), as it is bound to do, in its most recent report to the UN Committee on Economic, Social and Cultural Rights (CESCR), Uzbekistan indicated that:

*“...the Uzbek Constitution proclaims the primacy of the universally recognized rules of international law, a principle enshrined in the country’s current law on human rights and freedoms, which formally codifies the provision that, if an international treaty to which Uzbekistan is a party establishes rules other than those constituted by Uzbek law, the rules of the international treaty prevail in Uzbekistan.”<sup>15</sup>*

While treaties such as the ICESCR create a legal framework for ESC rights protection, the rights are implemented by States domestically. A range of national legislation is relevant, from labour laws, to non-discrimination law, to laws regulating healthcare and medicine, to housing laws. Laws affecting access to courts or other dispute resolution mechanisms, and the independence and effectiveness of those mechanisms, also need to be considered.

The importance of national legal frameworks in implementing these international law obligations is particularly relevant at a time of considerable legal change in Uzbekistan. Uzbekistan, having made a strong break with its isolationist past, has since the assumption of authority of the administration of President Mirziyoyev in 2016, carried out wide-ranging reforms of its institutions, procedures, laws and policies. Extensive revision of codes and other laws is still ongoing, including changes to the Constitution

<sup>10</sup> The Right to a Remedy and Reparation for Gross Human Rights Violations, A Practitioners’ Guide Revised Edition, 2018, <https://www.icj.org/the-right-to-a-remedy-and-reparation-for-gross-human-rights-violations-2018-update-to-practitioners-guide-no-2/>, pp. 65–81.

<sup>11</sup> *Ibid.*

<sup>12</sup> Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, Adopted and proclaimed by General Assembly Resolution 60/147 of 16 December 2005, Principle 3; CESCR, General Comment No. 9 (1998), The domestic application of the Covenant, paras 2–3; CESCR, General Comment No. 24 (2017), State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, E/C.12/GC/24, para. 39; CESCR, General Comment No. 20, Non-discrimination in economic, social and cultural rights, E/C.12/GC/20, 2 July 2009, para. 40.

<sup>13</sup> European Commission for Democracy through Law (Venice Commission), Report on the Implementation of International Human Rights Treaties in Domestic Law and the Role of Courts, CDL-AD(2014)036, 8 December 2014, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2014\)036-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2014)036-e), para. 113.

<sup>14</sup> Article 27 of the Vienna Convention on the Law of Treaties reads in full: “A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty. This rule is without prejudice to article 46.” Article 46 reads: “Article 46. 1. A State may not invoke the fact that its consent to be bound by a treaty has been expressed in violation of a provision of its internal law regarding competence to conclude treaties as invalidating its consent unless that violation was manifest and concerned a rule of its internal law of fundamental importance. 2. A violation is manifest if it would be objectively evident to any State conducting itself in the matter in accordance with normal practice and in good faith.”

<sup>15</sup> Third periodic report of Uzbekistan on implementation of the Covenant on Economic, Social and Cultural Rights, E/C.12/UZB/3, 14 August 2019, para. 46.

itself.<sup>16</sup> Many of these reforms concern subject matter relevant for the protection of ESC rights, including the education and healthcare systems, child protection and gender violence, and for access to justice.

Notably, the first steps have been towards reform of the judicial system, which is crucial to the protection of human rights. The reforms have, among others, led to changes in the judicial appeals procedure, the creation of a system of judicial self-governance under the High Judicial Council and new procedures for the selection, appointment and tenure of judges.<sup>17</sup>

This climate of reform has also brought greater openness to engagement with international law, standards and mechanisms for the protection of human rights. Uzbekistan is party to some of the principal universal human rights treaties including: the International Covenant on Economic, Social and Cultural Rights (ICESCR); the International Covenant on Civil and Political Rights (ICCPR); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) and the Convention on the Rights of the Child (CRC).<sup>18</sup> Uzbekistan is a party to different Conventions of the International Labour Organisation (ILO), which are particularly relevant for the protection of the right to labour and conditions of labour.<sup>19</sup>

It is a significant constraint on the effective implementation of these treaties however, that Uzbekistan has not accepted individual complaint mechanisms available under the UN treaties relevant to ESC rights, including under the Optional Protocols to the ICESCR, CEDAW and the CRC, or the communication mechanisms provided for under Article 14 of CERD and Article 77 of the CMW.<sup>20</sup> And while Uzbekistan is a party to the Optional Protocol to the ICCPR, the implementation record of more than 40 decisions remains unsatisfactory.<sup>21</sup>

One welcome development is that, in the past four years, two independent experts (Special Procedures) of the UN Human Rights Council have visited the country: the UN Special Rapporteur on freedom of religion or belief in 2017<sup>22</sup> and the UN Special Rapporteur on the Independence of Judges and Lawyers in 2019.<sup>23</sup> Uzbekistan had previously not allowed for such visits since 2002, following the visit of the UN Special Rapporteur on Torture.<sup>24</sup> Besides, Uzbekistan has been elected for the first time as a member of the UN Human Rights Council<sup>25</sup> and elaborated its first ever Human Rights

---

<sup>16</sup> The Law of the Republic of Uzbekistan on the Introduction of Amendments and Additions to the Constitution of the Republic of Uzbekistan, 6 April 2017, No. ZRU-426.

<sup>17</sup> The Law of the Republic of Uzbekistan on the High Judicial Council of the Republic of Uzbekistan, 6 April 2017, No. ZRU-427.

<sup>18</sup> United National Human Rights Treaty Body Database, Uzbekistan, [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=189&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=189&Lang=EN).

<sup>19</sup> International Labour Organisation: Ratifications for Uzbekistan, [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200\\_COUNTRY\\_ID:103538](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103538).

<sup>20</sup> United National Human Rights Treaty Body Database, Uzbekistan, [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=189&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=189&Lang=EN).

<sup>21</sup> UN Treaty Bodies Jurisprudence, <https://juris.ohchr.org/search/documents>.

<sup>22</sup> Report of the Special Rapporteur on Freedom of Religion or Belief on his mission to Uzbekistan: note/by the Secretariat, <https://digitallibrary.un.org/record/1481445?ln=en>.

<sup>23</sup> The Special Rapporteur on the independence of judges and lawyers, Report of the Special Rapporteur on the independence of judges and lawyers on his visit to Uzbekistan, A/HRC/44/47/Add.1, 20 April 2020, <https://www.undocs.org/A/HRC/44/47/Add.1>.

<sup>24</sup> Theo van Boven, Report of the Special Rapporteur on the Question of Torture, Mission to Uzbekistan, E/CN.4/2003/68/Add.2, 3 February 2003.

<sup>25</sup> Uzbekistan elected to UN Human Rights Council for the period 2021–2023, <https://www.un.int/uzbekistan/news/uzbekistan-elected-un-human-rights-council-period-2021-2023>.

Strategy outlining some of its key priorities in pursuing its goals in relation to human rights in the country.<sup>26</sup>

Translating this openness into real change that will lead to the protection of human rights in practice, remains an enormous challenge. As was confirmed by the UN Special Rapporteur on the Independence of Judges and Lawyers, it remains the case that neither the institutional independence of the judiciary, nor the independence of individual judges, is yet adequately protected, either in law or in practice in Uzbekistan.<sup>27</sup>

Deep systemic problems of lack of independence of the judiciary and of the legal profession, lack of the culture and practice of the rule of law, and the absence of a strong civil society, mean that extensive structural and practical reforms are needed to ensure that violations of human rights are prevented and that there are effective national systems in place to protect against and redress such violations. In particular, effective access to justice and remedies through the courts is essential.

The reforms have also brought risks to ESC rights. For example, the drive for renovation of the cities and a greater speed of urbanization<sup>28</sup> have led to increasing number of evictions, demolition of homes and relocations.<sup>29</sup> While the issue per se is not a new one for Uzbekistan,<sup>30</sup> the large scale of the evictions is unprecedented, and the public response to it has been notably stronger than before.<sup>31</sup>

In this context, this report aims to contribute to the discussion in Uzbekistan about how to achieve greater protection of ESC rights, and for effective access to justice for those whose ESC rights have been violated.

The report marks the conclusion of a three-year project, ACCESS, of the International Commission of Jurists (ICJ), which has worked to advance civil society engagement for the protection of ESC rights in Uzbekistan. The project, co-funded by the European Union, held discussion seminars and trainings on ESC rights, and published practitioners' guides and training modules. The report draws on several discussions in Uzbekistan, as well as on legal research carried out throughout the project. Thus, this report, does not aim to provide a definitive or comprehensive assessment to the workings of the Uzbekistan justice system or implementation of all aspect of ESC rights in Uzbekistan. Rather, it gives a glimpse of some of the issues which are essential for ensuring access to justice for specific ESC rights.

This report was written by Leyla Madatli, with additional research or review contributed by Temur Shakirov, Timothy Fish, Róisín Pillay and Ian Seiderman. The ICJ is grateful to all those who contributed to the research for the report, including national and international experts based both in and outside of Uzbekistan who shared their valuable expertise.

Chapter 1 of the report outlines the general issues which are essential to ensure access to justice for ESC rights in Uzbekistan. Chapter 2 is dedicated to issues related

<sup>26</sup> Decree of the President of Uzbekistan on the Adoption of the National Strategy of the Republic of Uzbekistan on Human Rights, 22 June 2020, No. UP-6012, <https://lex.uz/ru/docs/4872357>.

<sup>27</sup> Special Rapporteur on the Independence of Judges and Lawyers on his visit to Uzbekistan, Preliminary Observations on the official visit to Uzbekistan, 19–25 September 2019, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25043&LangID=E>.

<sup>28</sup> Decree of the President of Uzbekistan on the Measures on Fundamental Improvement of the Processes of Urbanisation, 10 January 2019, No. UP-5623, <https://lex.uz/ru/docs/4154824>.

<sup>29</sup> Podrobno.Uz newsportal: Urbanisation is understood differently, most often associating it with demolitions, 15 June 2019, <https://www.podrobno.uz/cat/obchestvo/urbanizatsiyu-vse-ponimayut-po-raznomu-zachastuyu/>.

<sup>30</sup> Decision of the Plenum of the Supreme Court of the Republic of Uzbekistan on Court Practice Concerning Housing Disputes, 14 September 2001, <https://lex.uz/docs/1452369>.

<sup>31</sup> Podrobno.Uz news agency: MP on the demolitions in Tashkent: transparent and clear rules should be developed, 17 February 2019, <https://podrobno.uz/cat/obchestvo/deputat-o-snosakh-v-tashkente-neob/>.

to the right to housing, its international legal aspects and national implementation. Chapter 3 discusses issues related to the right to health while Chapter 4 describes the aspects of the protection of the right to work internationally as well as in Uzbekistan. In Chapter 5, the report sets out conclusions and recommendations on access to justice as well as the measures to protect specific rights addressed in the report.



# CONCLUSIONS AND RECOMMENDATIONS

---

Following almost three decades of stagnation of the legal system and an isolationist approach to international human rights law, since 2016 Uzbekistan has undertaken a forced march to reforms. This has included the beginnings of a greater openness to international human rights procedures. Such openness is not only welcome but is essential to achieving greater protection of human rights and the rule of law at national level. Yet, in-depth reforms of the justice system are still needed to ensure effective remedies for ESC rights violations in practice, including through genuine independence of the judiciary and regular application of international human rights law in and by the courts.

Uzbekistan has a solid legal basis for the protection of many of the ESC rights it has obligations to respect, protect and fulfil, particularly under the ICESCR and other human rights treaties. This is evident for example in the three rights areas examined in this report: housing, health and rights to and at work. Indeed, labour, housing and health legislation serve to a significant degree to incorporate into national law many ESC rights guarantees. They provide a solid basis for their protection at national level, if they are interpreted and applied in accordance with international human rights law. Yet, often, this does not translate into real and equal protection of these rights in practice.

Recent increases in forced evictions, lack of access to justice in cases concerning the right to work, and right to health; discrimination and lack of equal protection; and shortcomings in the context of the COVID pandemic, are among the problems that show the need for renewed efforts to make protection through the justice system of these internationally-guaranteed rights a daily reality for all.

Uzbekistan has obligations to provide access to justice for ESC rights under international law and those obligations are reflected in its Constitution and other laws. It has already undertaken some legislative, administrative, and judicial measures to guarantee its international and constitutional obligations in this area. Recent legal reforms in Uzbekistan including the adoption of the National Human Rights Strategy are important, but still only first steps towards addressing the problems inherent in national law and practice concerning ESC rights.

The role of the judiciary in this regard and its institutional weakness compared to prosecutorial bodies, which continue to be the backbone of the justice system, is of key importance. The judiciary's lack of independence is enabled by the laws, structures and procedures of judicial administration, as well as by some customs and practices that have been inherited from its past.

Despite some legislative and administrative measures addressing independence and impartiality of the judiciary, it has not yet succeeded in becoming a genuinely independent guardian of the rule of law, able to administer justice in line with the international standards on the role and independence of the judiciary and guarantees of fair trial as provided under international human rights law in particular Article 14 of the ICCPR. If the courts are to be able to protect ESC rights, as well as other human rights, effectively, further pertinent reforms are needed to achieve the independence of the judiciary in Uzbekistan.

The independence of the legal profession in Uzbekistan remains unattained. It is still directly answerable to the Ministry of Justice in law and in practice. Given the important role of lawyers in ensuring access to justice, including for violations of ESC rights, the need to protect exercise of the legal profession from undue interference is among the issues to be addressed as a matter of priority.

The lack of consistent enforcement of laws in practice appears to be a significant problem. The general acceptance as normal of the continued discrepancy between a written law and practice is striking. Reforms should therefore focus on adherence to and implementation of the law in practice, and equal access to justice and remedies to enforce it. Laws should not be treated as mere good intentions, but should be enforced, including by the courts, in their letter and spirit, which in their turn must conform to international human rights obligations.

One general relevant issue is the insulation of the national legal system, in practice from the effect and contemporary interpretations of international human rights law and standards. In general, the use of international law in the Uzbekistan justice system, remains weak and underdeveloped. International law is to a high degree theoretical for most legal practitioners, an approach that appears to have its roots in legal tradition and culture, lack of political will and a lack of concrete programmes of measures to make progress in this regard. In practice, judges, prosecutors and lawyers continue not to be exposed to international law on ESC rights, and usually do not apply it in their work directly.

In Uzbekistan the justiciability of ESC rights is not always accepted, as some ESC rights are not seen as rights whose violation could or should be remedied through and by the courts. Rather, many actors see guarantees of non-discrimination or aspects of the right to health or education as benefits which are not of a justiciable nature. Lawyers, sharing a similar legal mindset and background, do not tend to demonstrate the necessary legal activism in pursuing judicial remedies in such cases.

Uzbekistan has taken some important anti-discrimination legislative measures that support equal protection of ESC rights, such as through enactment of laws on gender equality and women's rights, as well as the persons with disabilities. In other areas however, notably in regard to sexual orientation and gender identity, the law permits and even requires discrimination. Comprehensive non-discrimination legislation, which allows judicial remedies in cases of discrimination, is needed to fix these gaps. In addition, attention must focus on implementation of the legal framework in practice to protect the rights of women, and of members of disadvantaged and marginalized groups who still experience discrimination and barriers to accessing ESC rights.

Housing rights have become a topic of particular concern in Uzbekistan with regular cases of forced evictions. The existence of a relatively well-developed national legal framework in regard to the right to housing underlines the failure to implement national law in practice as judicial remedies in certain cases remain ineffective for protection of the right to housing.

The right to health is not fully protected and the availability and accessibility of the health services as provided by the law and the quality of the services remain deficient despite a solid legal framework, problems that have been particularly evident during the COVID-19 pandemic.

Uzbekistan has well-structured and developed labour legislation. Yet, it requires further implementation in practice in order to ensure that everyone benefits from the well-intended letter of the law in actual practice. The illusory nature of the labour legislation was demonstrated by decades of the systematic use of child and forced labour which are clearly prohibited by law but were widespread and systematic in practice, and continue in some cases. There is large role for the judiciary to play to ensure access to justice and providing effective judicial remedies for violations of workplace rights.

## Recommendations

Bearing in mind these conclusions, based on international law and standards, below the ICJ makes a number of recommendations, many of which targeted at the justice system and the role of the judiciary. But the ICJ also recommends that the executive, the Parliament, and the legal profession take steps to strengthen practical protection and access to ESC rights.

### Recommendations in regard to the Judiciary

Judges should as a matter of ordinary practice apply international human rights treaties, as interpreted by the relevant UN treaty bodies, to protect ESC rights, as a means of interpreting national legislation, as well as to scrutinize the compatibility of national legislation both with Uzbekistan's Constitution and its international law obligations. Among other measures, the Plenum of the Supreme Court should adopt guiding decisions on effective implementation of international law in the domestic legal system.

The Constitutional Court should have jurisdiction to hear individual applications of natural and legal persons on violations of their rights under domestic and international law. In practice, through its case law, the Constitutional Court should scrutinize implementation of international human rights law in the domestic legal system.

The judiciary, the legal profession and the prosecutorial bodies should be well equipped to provide legal remedies where violations of ESC rights are alleged.

Victims of violations of their ESC rights, including the rights to housing, health and labour rights, should have effective access to legal advice and assistance that would enable them to access justice and remedies, including through the courts. Free legal aid should be provided where necessary and particular efforts should be made to provide information on their rights and access to remedies to people in marginalised or disadvantaged situations, such as victims of forced labour.

In view of the findings of the report on specific ESC rights, where ESC rights issues come before the courts, the judiciary should, in appropriate cases:

- ensure implementation of the principles of non-discrimination and equal protection in practice;
- enforce housing legislation including full protection against forced eviction, in light of the international law right to housing. Courts, including when considering cases of evictions, should take into account that the right to housing is broader than the right to private property and non-owners, including tenants or those occupying a dwelling informally, have the right to housing under international law,. All evicted persons should be provided with alternative accommodation or adequate compensation, in line with international law;
- apply the constitutional right to health, in light of obligations to protect the right to health under international human rights law.
- enforce the national legal framework protecting labour rights, in light of obligations under international human rights law, and provide judicial remedies, including in cases of forced labour.

Training and other capacity building activities for legal professionals, including judges, provided by appropriate professional institutions, should cover the protection of ESC rights under international law.

Furthermore, the institutions of the judiciary should regularly publish and make available for judges in local languages decisions of UN Treaty Bodies where authoritative interpretation of specific ESC rights is provided.

Comprehensive reforms should be put in place aimed at attaining not only formal but the practical and effective independence of the judiciary. Any forms of undue interference with the judiciary by the institutions of executive and legislative should be eradicated including through the de jure and de facto independence of the Supreme Judicial Council and its procedures. In this connection it is essential that the recommendations of the UN Special Rapporteur on the Independence of Judges and Lawyers following his visit to Uzbekistan are fully implemented.

The quality of court judgments should be improved in order to ensure well-reasoned decisions, which are perceived by the parties, and by the public, as applying clear legal rules and a proper factual evaluation in fair proceedings.

Programmes of capacity building for judges, put in place through the School of Judges, should also address questions of judicial independence, ethics and accountability, as well as quality of judgments.

The judicial authorities should take further measures to ensure that court judgments are made accessible to the public, including through available online tools.

Courthouses should be made more accessible to the public, including persons with disabilities, in order to ensure that justice is more accessible for the public.

### **Recommendations in regard to the Executive and Parliament**

The supremacy of international law over national legislation, which is established in the Uzbekistan legal system, should be applied in practice. International law, standards and jurisprudence on human rights, including in respect of the ICESCR, should become a governing framework for the ongoing programme of legal reform, which should be aimed, inter alia, at ensuring compliance with international law obligations, including on issues of equality and non-discrimination, housing, healthcare, labour rights, access to justice and remedies in cases of violations of ESC rights.

Recommendations of the UN treaty bodies on ESC rights, including as a result of periodic reporting procedure, as well as the Human Rights Council's Universal Periodic Review, should be fully implemented through a structured process involving consultation with civil society.

Uzbekistan should become party to additional international instruments which can provide protection of ESC rights. These include the UN Convention on the Protection of Persons with Disabilities and its Optional Protocol. Besides, Uzbekistan should join the procedures which allow for individual communications (complaints) to UN Treaty Bodies to seek redress for violations of rights protected under the relevant UN treaties: these include the Optional Protocol to the Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention on the Elimination of Discrimination against Women, the Optional Protocol to the Convention on the Rights of the Child on a Communication Procedure.

The Parliament should adopt comprehensive anti-discrimination legislation prohibiting direct and indirect discrimination, and guaranteeing equal protection, in both the public and private sectors, on all grounds. The legislation should guarantee full access to effective remedies and reparation for victims of discrimination in judicial and administrative proceedings, including through access to legal advice and legal aid where necessary.

The parliament should adopt legislation restoring the independence of the Chamber of Lawyers, in particular from the executive.

The legislature should also adopt a Law on Legal Aid to establish full-functioning system covering non-criminal cases as well to enhance access to justice for ESC rights cases.

### **Recommendations concerning specific ESC rights**

The procedures and practices of eviction should be in line with international law. In particular, it should meet the standards of genuine consultation, adequate notice, adequate information, government presence, appropriate conditions during the eviction. Where a person wishes to contest the evictions, effective legal remedies should be available in all cases. Forced evictions should be prohibited at all times be they from private, public or other dwellings.

Quality healthcare services should be made available, accessible (including physical, economic and information accessibility), acceptable, and of good quality to everyone across the country without any discrimination. Where health services or treatment are guaranteed by law, they should be available at all time in practice without any discrimination.

The issue of discrimination in the workplace, especially based on sex, such as sexual harassment, should be addressed as a matter of priority at the level of State policy, raising awareness among the wider public as well as employers. Women should not suffer discrimination as a result of their pregnancy. Judicial remedies should be made available in cases where cases of sexual harassment or other discrimination at work are alleged.

Further measures should be taken to enforce the national legal framework regulating labour rights. In particular, the cases of the forced labour shall be fully eradicated. Where individuals are left out of contractual protection in labour cases, general principles should apply in order to ensure that individuals are afforded all the necessary remedies under international labour law and standards.



## ICJ Commission Member

March 2021 (for an updated list, please visit: [www.icj.org/commission](http://www.icj.org/commission))

### President:

Prof. Robert Goldman, United States

### Vice-Presidents:

Prof. Carlos Ayala, Venezuela

Justice Radmila Dragicevic-Dicic, Serbia

### Executive Committee:

Justice Sir Nicolas Bratza, UK

Dame Silvia Cartwright, New Zealand

Ms Roberta Clarke, Barbados—Canada (Chair)

Mr Shawan Jabarin, Palestine

Ms Hina Jilani, Pakistan

Justice Sanji Monageng, Botswana

Mr Belisário dos Santos Júnior, Brazil

### Other Commission Members:

Professor Kyong-Wahn Ahn, Republic of Korea

Justice Chinara Aidarbekova, Kyrgyzstan

Justice Adolfo Azcuna, Philippines

Ms Hadeel Abdel Aziz, Jordan

Mr Reed Brody, United States

Justice Azhar Cachalia, South Africa

Prof Miguel Carbonell, Mexico

Justice Moses Hungwe Chinhengo, Zimbabwe

Prof Sarah Cleveland, United States

Justice Martine Comte, France

Mr Marzen Darwish, Syria

Mr Gamal Eid, Egypt

Mr Roberto Garretón, Chile

Ms Nahla Haidar El Addal, Lebanon

Prof Michelo Hansungule, Zambia

Ms Gulnora Ishankhanova, Uzbekistan

Ms Imrana Jalal, Fiji

Justice Kalthoum Kennou, Tunisia

Ms Jamesina Essie L King, Sierra Leone

Prof César Landa, Peru

Justice Ketil Lund, Norway

Justice Qinisile Mabuza, Swaziland

Justice José Antonio Martín Pallín, Spain

Prof Juan Méndez, Argentina

Justice Charles Mkandawire, Malawi

Justice Yvonne Mokgoro, South Africa

Justice Tamara Morschakova, Russia

Justice Willy Mutunga, Kenya

Justice Egbert Myjer, Netherlands

Justice John Lawrence O’Meally, Australia

Ms Mikiko Otani, Japan

Justice Fatsah Ouguergouz, Algeria

Dr Jarna Petman, Finland

Prof Mónica Pinto, Argentina

Prof Victor Rodriguez Rescia, Costa Rica

Mr Alejandro Salinas Rivera, Chile

Mr Michael Sfard, Israel

Prof Marco Sassoli, Italy—Switzerland

Justice Ajit Prakash Shah, India

Justice Kalyan Shrestha, Nepal

Ms Ambiga Sreenevasan, Malaysia

Justice Marwan Tashani, Libya

Mr Wilder Tayler, Uruguay

Justice Philippe Texier, France

Justice Lillian Tibatemwa-Ekirikubinza, Uganda

Justice Stefan Trechsel, Switzerland

Prof Rodrigo Uprimny Yepes, Colombia

