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YURIDIK FANLAR

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YURIDIK FANLAR – LAW*Article / Original Paper***THE ROLE OF THE CONSTITUTION IN THE DEVELOPMENT OF NEW UZBEKISTAN: CONSTITUTIONAL REFORMS, HUMAN DIGNITY AND THE SOCIAL STATE****Abdiyeva Dilfuza Ixtiyorovna**National University of Uzbekistan named after Mirzo Ulugbek
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Annotation. This article examines the constitutional reforms enacted in the Republic of Uzbekistan through the amended Constitution that entered into force on 1 May 2023, situating them within the processes of state-building, human rights protection, and the development of a constitutionally grounded social state. Using doctrinal, comparative, and socio-legal methods, the study analyses the constitutional entrenchment of human dignity, the expansion of social rights, and the strengthening of institutional accountability mechanisms. Comparative insights are drawn from Germany, France, Japan, and South Korea, while empirical indicators from the World Justice Project, UNDP, Transparency International, and Freedom House provide contextual support. The findings demonstrate that the 2023 reforms have established a stronger normative foundation for the protection of fundamental rights, social justice, and the rule of law. The article proposes legislative and institutional reforms, including enhancement of constitutional justice, establishment of an independent social rights monitoring mechanism, and introduction of a constitutional dignity standard in administrative decision-making.

Keywords: Constitutional reform, New Uzbekistan, human dignity, social state, comparative constitutional law, rule of law, fundamental rights, institutional accountability, constitutional court, social rights enforcement.

**YANGI O'ZBEKISTON TARAQQIYOTIDA KONSTITUTSIYANING O'RNI:
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"Huquqiy fanlar" kafedrası katta o'qituvchisi

Annotatsiya. Mazkur maqolada 2023-yil 1-maydan kuchga kirgan tahrirdagi O'zbekiston Respublikasi Konstitutsiyasi asosida amalga oshirilgan konstitutsiyaviy islohotlar davlat qurilishi jarayonlari, inson huquqlarini himoya qilish hamda konstitutsiyaviy asoslangan ijtimoiy davlatni rivojlantirish nuqtai nazaridan tahlil qilinadi. Tadqiqotda doktrinal, qiyosiy va ijtimoiy-huquqiy tadqiqot usullaridan foydalanilib, inson qadr-qimmatining

konstitutsiyaviy mustahkamlanishi, ijtimoiy huquqlarning kengaytirilishi hamda institutsional javobgarlik mexanizmlarining kuchaytirilishi o'rganiladi. Shuningdek, Germaniya, Fransiya, Yaponiya va Janubiy Koreya tajribasi bilan qiyosiy tahlil olib borilgan bo'lib, Jahon odil sudlov loyihasi (World Justice Project), BMT Taraqqiyot Dasturi (UNDP), Transparency International hamda Freedom House tomonidan e'lon qilingan empirik ko'rsatkichlar mavzuning dolzarbligini asoslash uchun qo'llanilgan. Tadqiqot natijalari 2023-yildagi konstitutsiyaviy islohotlar insonning asosiy huquq va erkinliklari, ijtimoiy adolat hamda qonun ustuvorligini ta'minlash uchun yanada mustahkam normativ-huquqiy poydevor yaratganligini ko'rsatadi. Maqolada konstitutsiyaviy odil sudlovni takomillashtirish, ijtimoiy huquqlarning amalga oshirilishini monitoring qiluvchi mustaqil mexanizmni tashkil etish hamda ma'muriy qarorlar qabul qilish jarayoniga inson qadr-qimmatining konstitutsiyaviy standartini joriy etishga qaratilgan qonunchilik va institutsional islohotlar bo'yicha takliflar ilgari suriladi.

Kalit so'zlar: konstitutsiyaviy islohot, Yangi O'zbekiston, inson qadr-qimmat, ijtimoiy davlat, qiyosiy konstitutsiyaviy huquq, qonun ustuvorligi, asosiy huquq va erkinliklar, institutsional javobgarlik, Konstitutsiyaviy sud, ijtimoiy huquqlarning ta'minlanishi.

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I. Introduction

The amendment of the Constitution of the Republic of Uzbekistan, adopted by referendum on 30 April 2023 and entering into force on 1 May 2023, constitutes a significant constitutional moment in the country's post-Soviet history. After three decades of statehood, Uzbekistan has undertaken a sweeping re-articulation of its constitutional text, expanding the catalogue of fundamental rights, restructuring the relationship between branches of power, and embedding within the constitutional order an explicit commitment to human dignity and the social state. These reforms represent the legal crystallisation of the New Uzbekistan political programme pursued by President Shavkat Mirziyoyev's administration since 2016, translating into binding constitutional norms commitments that had previously existed at the level of presidential decree and policy declaration. Three developments in the 2023 text are of particular structural importance. First, the elevation of human dignity to the status of a supreme constitutional value under Article 13, supplemented by the explicit prohibition of degrading treatment under Article 26, establishes a normative baseline against which all state action must be measured. Second, the expanded catalogue of social, economic, and environmental rights under Articles 41 to 53 creates justiciable claims imposing positive obligations upon the state. Third, the reinforcement of judicial independence and the introduction of individual constitutional complaint mechanisms represent a qualitative advance in access to constitutional justice. This article proceeds from the hypothesis that the 2023 Constitution contains the normative architecture necessary for a genuine social-democratic rule of law state, but that its actualisation depends upon the development of robust institutional mechanisms capable of giving the constitutional text operative force. Uzbekistan presents a case of singular interest in the comparative literature on constitutional reform in transitional states. Unlike states that underwent rapid systemic transformation in 1989–1991, Uzbekistan has pursued constitutional reform through evolutionary amendment while maintaining institutional continuity. This gradualism preserves stability but risks embedding the institutional pathologies of its predecessor framework. The international dimension is equally significant: according to the World Justice Project Rule of Law Index for 2023, Uzbekistan ranks among the countries that have most improved their rule of law scores since 2016, representing one of the five greatest positive global trajectories over seven years (World

Justice Project, 2023). Uzbekistan's Human Development Index stands at 0.727 (UNDP, 2023), while the Corruption Perceptions Index for 2023 assigned a score of 33 out of 100, reflecting both challenges and the notable improvement of fifteen points since 2012 the largest gain recorded globally over that period. These socioeconomic and governance realities provide the empirical backdrop against which the constitutional commitment to social rights must be evaluated.

This article employs a multi-method approach integrating doctrinal legal analysis, comparative constitutional law, and empirical socio-legal assessment. The doctrinal analysis is grounded in the authoritative text of the 2023 Constitution, read in conjunction with the Law on the Constitutional Court, the Administrative Procedures Act of 2017, and secondary normative instruments. The comparative analysis draws upon Germany, France, Japan, and South Korea selected for the specific relevance of their constitutional experiences to Uzbekistan's challenges. The empirical dimension draws upon the World Justice Project Rule of Law Index, Freedom House Nations in Transit, Transparency International Corruption Perceptions Index, World Bank Governance Indicators, and UNDP Human Development Reports. The methodological framework is supplemented by a constructive interpretive approach in the Dworkinian tradition.

The Constitutional Status of Human Dignity. Article 13 of the 2023 Constitution establishes that democracy in the Republic of Uzbekistan is founded on universally recognised human principles, according to which the human being, their life, liberty, honour, dignity, and other inalienable rights are the supreme value. Article 26 reinforces this by prohibiting absolutely any form of torture, violence, or cruel, inhuman, or degrading treatment, and Article 26(3) extends the prohibition to non-consensual medical or scientific experiments. Together, these provisions establish what German constitutional doctrine terms the *Menschenwürde* a non-derogable constitutional core that no state action may lawfully violate. The elevation of human dignity to supreme constitutional value has profound implications for the entire constitutional order. If human dignity is genuinely supreme, it functions as an interpretive canon: every other constitutional norm must be read in its light, and no legislative or administrative act that violates human dignity can claim constitutional validity. The German model is instructive: Article 1(1) of the Basic Law declares that human dignity is inviolable, and the Federal Constitutional Court's Hartz IV judgment of 2010 held that the constitutional right to a minimum subsistence income derives directly from Articles 1 and 20(1) of the Basic Law. Article 13 of the 2023 Constitution should be interpreted in precisely this manner: the obligation to protect human dignity encompasses not only a negative duty to refrain from rights violations but an affirmative duty to create the conditions necessary for its realisation.

Structural Limitations and the Case for Constitutional Complaint. Despite the constitutional strength of the dignity provisions, two structural limitations require legislative remedy. First, the absence of a fully accessible individual constitutional complaint mechanism: while Article 12 of the revised Constitutional Court Law of 2023 provides for certain individual petitions, the mechanism remains procedurally constrained. Germany's *Verfassungsbeschwerde*, through which approximately 230,000 complaints were filed between 1951 and 2022 demonstrates that individual constitutional complaint performs a valuable function even when unsuccessful, by generating dialogue between citizens, the Court, and the legislature. A fully accessible constitutional complaint mechanism should be adopted as a

legislative priority. Second, the UN Committee Against Torture's most recent periodic review (CAT/C/UZB/CO/5, 2019) identified ongoing concerns regarding conditions of detention and ill-treatment during interrogation. The 2023 constitutional amendments provide a strengthened normative basis for reform, but translating these norms into enforceable standards requires specific legislative action and independent inspection mechanisms.

The Catalogue of Social Rights under Articles 41 to 53. Articles 41 through 53 of the 2023 Constitution establish an extensive catalogue of economic, social, cultural, and environmental rights, including: the right to own property (Article 41); the right to work under safe conditions with fair remuneration (Article 42); the right to rest (Article 45); the right to social security in old age, disability, unemployment, and bereavement (Article 46); the right to housing (Article 47); the right to health and qualified medical assistance (Article 48); the right to a healthy environment (Article 49); and the right to education (Article 50). The 2023 amendments notably strengthened several provisions: Article 42 prohibits dismissing women on grounds of pregnancy or maternity; Article 50 adds provisions on inclusive education; and Article 57 introduces enhanced protections for elderly persons and persons with disabilities. Comparative constitutional law reveals three approaches to justiciability of social rights. The American model treats social rights as non-justiciable in federal constitutional law. The German model derives minimum social guarantees from dignity and social state principles, making them indirectly but powerfully justiciable. The Japanese model, following decisions on Article 25 in the *Asahi* case (1967), treats social rights as constitutional directives binding on the legislature, subject to wide discretion in implementation but reviewable for manifest unreasonableness. The Japanese model is most instructive for Uzbekistan's context, given Article 54's declaration that ensuring human rights and freedoms is the supreme goal of the state.

The Minimum Core Doctrine. The minimum core doctrine, developed by the UN Committee on Economic, Social and Cultural Rights in General Comment No. 3 (1990), holds that states have an immediate, non-derogable obligation to ensure a minimum essential level of each social right. According to World Bank data for 2022, approximately 11 percent of Uzbekistan's population lives below the national poverty line, with significantly higher rates in rural oblasts, underscoring the urgency of translating constitutional social commitments into operational legislative frameworks. A Social Rights Implementation Act should be adopted analogous in structure to South Africa's Children's Act or Germany's Social Code establishing minimum normative standards for each social right, progressive realisation timelines with measurable benchmarks, an independent monitoring body with powers of investigation and public reporting, and a right of vulnerable persons to judicial appeal where minimum standards are not met.

The Right to a Healthy Environment. Article 49 of the 2023 Constitution provides every person with the right to a favourable environment and reliable information about its condition. Notably, Article 49(5) specifically addresses the ecological crisis of the Aral Sea region - a remarkable provision in comparative perspective. The UN Environment Programme's 2022 assessment identified the Aral Sea basin as one of the most severe ongoing environmental crises globally, with direct adverse health consequences for an estimated five million people. Effective implementation requires an environmental ombudsman institution, mandatory public consultation procedures for major planning decisions, and a regulatory mechanism

applying the polluter-pays principle, all consistent with Uzbekistan's obligations under the Aarhus Convention of 1998.

Parliamentary Development and Accountability. The 2023 amendments introduce significant modifications to the Oliy Majlis, including: the right of the Legislative Chamber to hear reports from Cabinet members under Article 94(4); a formal motion of no confidence in the Prime Minister under Article 119; and the right of citizens numbering at least one hundred thousand to submit legislative proposals under Article 98. Three areas require further development: parliamentary oversight of the security services and intelligence apparatus; careful legislative elaboration of the relationship between the President and Prime Minister to prevent executive dominance (Freedom House Nations in Transit 2023 assigns Uzbekistan a National Democratic Governance score of 1.25 out of 7); and stronger transparency guarantees for the budget process under Article 148(2), including public access to budget documents in machine-readable format.

Judicial Independence and the Constitutional Court. The reformed Constitutional Court under Articles 132 to 133 is vested with broad jurisdiction, including reviewing the constitutionality of laws and normative acts and reviewing constitutional complaints from citizens who have exhausted all other means of judicial protection. This last provision represents the most significant institutional innovation in the 2023 text. However, the Court's composition continues to be shaped substantially by presidential nomination under Article 132, creating structural risks for judicial independence. Comparative research consistently demonstrates that judicial independence correlates strongly with the quality of fundamental rights protection (Rios-Figueroa and Staton, 2014). Operational realisation requires sustained institutional investment in judicial training, transparent appointment processes, and security of judicial tenure.

Germany's Basic Law of 1949 demonstrates that constitutional social state commitments require active state intervention to ensure the material conditions necessary for human dignity without eliminating market mechanisms, a philosophy reflected in Uzbekistan's 2023 Constitution, which simultaneously endorses the market economy under Article 65 and guarantees extensive social rights under Article 43. France's incorporation of the 1946 Preamble into the constitutional bloc demonstrates the possibility of deriving binding constitutional obligations from texts incorporated by reference, directly relevant to Uzbekistan's international human rights treaty commitments under Article 15 of the Constitution. Japan's programmatic rights doctrine, preserving legislative discretion while ensuring constitutional social commitments are not rendered wholly non-justiciable, offers the most applicable model for the Uzbek Constitutional Court, which should treat the social rights in Articles 41 to 53 as generating binding legislative mandates subject to a manifest unreasonableness standard of review. South Korea's constitutional trajectory offers the most instructive parallel. The 1987 Constitution's Constitutional Court with individual complaint jurisdiction deepened constitutional culture substantially over three decades. South Korea's 2023 Corruption Perceptions Index score of 63 out of 100 (32nd globally), compared to Uzbekistan's 33 (121st), illustrates achievable long-term improvement: South Korea's own CPI stood at considerably lower levels during its authoritarian period in the 1970s and 1980s (Transparency International, 2023). Uzbekistan's fifteen-point CPI gain between 2012 and

2023 the largest globally, demonstrates positive reform momentum that the constitutional amendments both reflect and are intended to sustain.

Four Priority Areas for Legislative Action.

First, a comprehensive Legal Aid Act should be adopted under Article 29, providing guaranteed legal representation in all criminal proceedings, administrative actions affecting fundamental rights, and social welfare determinations. Access to justice is a precondition for the realisation of all other rights. Second, an independent Information Commissioner should be established under Article 34, with powers to investigate complaints, issue binding decisions, and impose administrative sanctions for non-compliance, drawing on the model of the UK Information Commissioner's Office. The Law on Openness of State Authority and Administration Bodies has not been comprehensively updated to reflect the constitutional amendments. Third, a new Environmental Procedures Act implementing all three pillars of the Aarhus Convention information access, public participation, and judicial review should be adopted under Article 49. Fourth, a comprehensive disability rights law aligned with the UN Convention on the Rights of Persons with Disabilities (ratified by Uzbekistan in 2021) should be adopted under Article 57(3), reflecting the paradigm shift from a medical to a social model of disability.

Three institutional priorities are identified. First, the Court should publicly adopt a comprehensive methodology for constitutional interpretation, articulating the relationship between textual, purposive, and systematic interpretation, the role of international human rights standards in constitutional reasoning, and the standards of review applicable to legislative acts restricting fundamental rights, including the proportionality test. Second, targeted legal literacy programmes, simplified procedures for self-represented complainants, and partnerships with civil society legal aid organisations would substantially enhance the Court's reach. Third, the Court should invest in comparative constitutional research capacity drawing on jurisprudence from Germany, France, Japan, South Korea, India, and the European Court of Human Rights.

Three original proposals are advanced. First, a constitutional dignity standard for administrative decision-making: every administrative authority would be required, when making decisions affecting fundamental rights, to explicitly address the impact on human dignity and demonstrate that any restriction is proportionate to a legitimate constitutional objective. This standard would be embedded in a revised Administrative Procedures Act, administrative justice jurisprudence.

Second, a National Social Rights Council - an independent constitutional body mandated to monitor the progressive realisation of social rights under Articles 41 to 53. This body would publish annual reports identifying gaps between constitutional commitments and legislative or administrative reality, and make recommendations to the Oliy Majlis and the Government. Its composition would include representatives of academic institutions, civil society organisations, and international human rights bodies, drawing on the models of South Africa's Human Rights Commission and India's National Human Rights Commission.

Third, a Constitutional Culture Programme - a long-term public education initiative aimed at deepening awareness of constitutional rights and responsibilities among the general population, the legal profession, public officials, and young people. Research by the Council of Europe on constitutional education in transitional states demonstrates that constitutional

culture is a more reliable predictor of long-term constitutional performance than institutional design alone. Uzbekistan's investment in legal education should be supplemented by constitutional rights curricula at all levels of the education system, aligned with Council of Europe Recommendation CM/Rec(2010)7.

Conclusion

This article has argued that the 2023 Constitution of the Republic of Uzbekistan represents a significant normative advance in the development of a social constitutional order grounded in human dignity, positive social rights, and strengthened institutional accountability. The 2023 Constitution contains the normative architecture for a genuine social rule of law state, the provisions on human dignity, social rights, judicial independence, and constitutional accountability are substantively sound and comparable in scope to the constitutional frameworks of established constitutional democracies. Translating this normative architecture into operational reality requires: at the legislative level, a Social Rights Implementation Act, a Legal Aid Act, an Environmental Procedures Act, and a comprehensive disability rights law; at the institutional level, a National Social Rights Council, a methodologically sophisticated Constitutional Court with genuine individual complaint jurisdiction, and an independent Information Commissioner; at the cultural level, a Constitutional Culture Programme embedding constitutional literacy throughout the education system. Uzbekistan's distinction as the country recording the largest global improvement in Transparency International's Corruption Perceptions Index between 2012 and 2023 reflects genuine reform momentum that the constitutional amendments both reflect and are intended to sustain. The 2023 Constitution has opened a door; the institutional and cultural work ahead determines whether the promise it contains will be fulfilled.

Adabiyotlar/Literatura/References

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