

# THE RIGHT TO EDUCATION IN THE REPUBLIC OF KAZAKHSTAN\*

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*The significance of the realization of human rights is increasing worldwide due to the establishment of international agencies, non-governmental organizations, and the adoption of international documents on the protection of human rights. Such global tools require countries to fulfil their duties towards human rights. The obligations of states may differ, but the main ones are as follows: to respect, protect, and implement measures to promote and protect human rights. Indeed, the adoption of the Universal Declaration of Human Rights has invoked countries to preserve the catalogue of human rights contained therein, among which the right to education is found. As a result, countries implemented these articles on the protection of human rights in their legislation. Since education represents a colossal interest, states attempt to regulate this area by establishing and implementing laws solely. This article seeks to provide an overview of the current situation of the realization of the right to education in contemporary Kazakhstan. The research conducted in this paper was done primarily in an exploratory manner within the legal aspect. Thus, various national and international legal instruments on the protection of the right to education were taken into account.*

## **Keywords**

education, human rights, Kazakhstan, international conventions

## **Introduction**

The right to education is an internationally recognized human right. It is one of the most crucial human rights and its protection is extremely important. The necessity of the fulfillment of the right to education is tremendous, since education brings a substantial contribution for the development of society and states. Therefore, the right to education has been established in international documents on the protection of human rights. The Universal Declaration of Human Rights, the International Covenant on Economic Social and Cultural Rights, and the Convention on the Rights of the Child are just a small part of the huge list that calls for the protection of the right to education worldwide.

The Republic of Kazakhstan, as a part of the global community, recognizes human rights and, consequently, implements the norms of the above-mentioned instruments. All the principal international documents that have been signed and ratified in the country will be considered in detail in the next subparagraphs.

## **1. Realization of the right to education in contemporary Kazakhstan**

The right to education is one of the principal rights cored in the human rights systems. The right to education has been defined differently by many scholars worldwide. In its

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general understanding, it is the right of a person to acquire a certain amount of knowledge, cultural skills and professional orientation (Курицына Е. 2014, 3). The right to education is the right to get any type and level of education. For instance, it can be primary, secondary, or tertiary.

Due to the dissolution of the Soviet Union in 1991, fifteen newly independent states appeared; among them was the Republic of Kazakhstan. After gaining its independence after 70 years under Soviet rule, the Republic of Kazakhstan has encountered opportunities and challenges at once. One of the biggest and most crucial tasks was the formation of the Kazakh society from scratch. Ariel Cohen outlines that the first president of the Republic of Kazakhstan, Nursultan Nazarbayev, took Kazakhstan through a crash course in nation-building (Cohen 2018, 17). It has started with the transition to market economy and democracy that required the government to adopt some fundamental decisions concerning the economic and political foundations of the state.

The Republic of Kazakhstan, within the years of its sovereignty has adopted a block of legal documents that deal with the issues of protecting and promoting human rights. Primarily, the official document, the Constitution of the Republic of Kazakhstan, has been endorsed. The current Constitution of the Republic of Kazakhstan was adopted in 1995, in which the principal norms and provisions of the Universal Declaration of Human Rights are reflected. The first article of the Constitution states that the Republic of Kazakhstan is a democratic, secular, legal, and social state whose highest values are a person, his life, rights, and freedoms (The Constitution of the Republic of Kazakhstan). 29 out of the 98 Articles of the document are dedicated to the rights and freedoms of human beings and citizens. Article 12 of the Constitution of the Republic of Kazakhstan proclaims the following:

*"Human rights and freedoms in the Republic of Kazakhstan shall be recognized and guaranteed according to Constitution".*

*"Human rights and liberties shall belong to everyone by virtue of birth, be recognized as absolute and inalienable, and define the contents and implementation of laws and other regulatory and legal acts".*

Iskakova marks that the Constitution of the Republic of Kazakhstan is based not only on universally recognized norms of international law, but also has much in common with the latter in its approach to the issue of human rights: firstly, both international law and the Constitution of the Republic of Kazakhstan reject any discrimination on the grounds of gender, race, language, religion, national and social origin (Искакова 1999, 68). Secondly, there is a straightforward approach in international and federal law to determining a person's status based on age. Thirdly, basic civil rights and freedoms are protected; restrictions on human rights and liberties are permitted only in exceptional cases provided for by law. Finally, proclaimed human rights and freedoms in all areas of the state and public life are guaranteed. The Constitution of the Republic of Kazakhstan contains other universally recognized norms of international law and is the basis for the formation of national legislation.

The right to education in modern Kazakhstan is widely protected, since education plays an enormous role in the strategic task of building a knowledge-intensive and innovative economy. Therefore, the right to education is established in the Constitution

of the Republic of Kazakhstan under Article 30. Thus, following Article 30, the citizens of the Republic of Kazakhstan are entitled to the following:

*"Citizens shall be guaranteed free secondary education in state educational establishments. Secondary education shall be obligatory".*

*"A citizen shall have the right to obtain a higher education on a competitive basis in a state higher educational institution".*

In addition to the above provisions of the article, the Constitution provides the following:

*"Fee-based education in private educational institutions shall be carried out on the grounds and in the manner prescribed by law".*

*"The state shall set uniform compulsory standards in education. The activity of any educational institution must comply with these standards".*

The right to education in the Republic of Kazakhstan is granted to the people based on other laws and legal acts as well. Since education begins from an early age, one of the important documents is the Law on the Rights of Children. This legal document dates back to the year of 2002 and consists of 10 chapters and 53 articles. The provisions of the law regulate relations arising due to the implementation of fundamental rights and legal interests of a child guaranteed by the Republic of Kazakhstan proceeding from the principle of the priority of preparing children for their entire life in society, their development of a social important and creative activity, their development of high moral qualities, patriotism and civic consciousness and the formation of a national consciousness based on the universal human values of the global civilization. Article 15 of the document is related to the right of a child to education. It includes the following:

*"Each child shall have the right to education, and he (she) shall be guaranteed by receipt of gratuitous basic, main secondary and general secondary education and on a competitive basis – gratuitous technical and professional, post-secondary and higher education according to the legislation of the Republic of Kazakhstan on education".*

Therefore, the right to education is guaranteed at all levels of the education process.

The right to education is established in numerous other documents such as the "Law on Education". The law is dedicated to ensuring the constitutional right to education of citizens of Kazakhstan, as well as foreigners and stateless persons permanently residing in Kazakhstan. What is more, the law regulates social relations in education and defines the basic principles of state policy in education. It is laid down in Article 3 of the Law on Education and includes the following:

- the equal right of all to obtain quality education;
- the priority of the development of the academic system;
- the accessibility of education of all levels to the population in recognition of the mental, physiological and individual peculiarities of each person;
- the secular, humanistic and developed nature of schooling, the priority of civil and national values, life and health of a person, free personality development;
- the respect of human rights and freedoms;
- the stimulation of personality and development of giftedness through education;
- the continuity of the process of education through its various levels;
- the unity of training, education and development;

- the democratic nature of the management of education, the transparency of the activity of the educational system;
- the variety of educational organisations in forms of ownership, forms of training and education and the direction of education (Bekker 2017, 1–3).

Yakavets equally notes that one of the key purposes of the Law on Education relies on the necessity of creating conditions for bringing up and developing individuals based on shared human values (Yakavets 2014, 10). Additionally, she provides a chronological record of the other strategic policy documents of the country from the period between 1991–2000 that ratify the democratic nature of the education system (Yakavets 2014, 10), such as the Law on Higher Education (1993), the Concept of Secondary Schools of the Republic of Kazakhstan (1996), the Program of preparation of textbooks and teaching materials for comprehensive schools (1996), the Law on Languages (1997), the Resolution of the Government 'On measures of further reform of the secondary education system in the Republic of Kazakhstan' (1998), the National Programme on Education (2000) and the Government Resolution on a Guaranteed State Minimum for Educational Organisations' Network (2000). These laws are a tiny piece of the vast list of legal documents the Republic of Kazakhstan approved on education and its provision to the citizens.

Education and its realization as a constitutional right is a priority in the two crucial long-term strategic documents of the country that are the Strategy "Kazakhstan 2030: Prosperity, Security and Improvement of the Well-being of all Kazakh Citizens" and the Strategy "Kazakhstan-2050: New Political Course of the Established State". It is widely known that qualified and talented individuals are the most valuable assets of a state. Therefore, an investment in human capital through education is crucial since it will produce beneficial returns. All things considered, knowledge and professional skills have been marked as key landmarks of the modern education, training and retraining system. Examining the framework of the document "Kazakhstan-2050: New Political Course of the Established State", we can note that many objectives have been put forward concerning the continuation of providing the right to education. For instance, one objective was to provide 100% participation of children in preschool education within the program Balapan. The implementation of the program has brought benefits in the form of an increased number of kindergartens and mini-centers. Thus, 3,956 new kindergartens and mini-centers have been opened since the start of the program.

The main focus was also devoted to supporting students at the higher education level. One specific aim was to help students (who can't pay for their studies) financially by taking the following steps:

- to create a network of public-private partnerships for the development of higher and mid-level education;
- to develop a multistage system for education grants;
- to create a specialised education system of R&D and applied education, including regional specialisations across the whole country;
- and to make the teaching of production practices during secondary education mandatory by law.

Accordingly, the Republic of Kazakhstan's government is taking steps to realize the constitutional right to education by implementing different measures such as improving the legal framework, developing the education system, and creating the necessary

conditions for education. Besides, the right to education in Kazakhstan is realized under international law that will be detailed in the following subparagraph of the paper.

## **2. The right to education under the international documents on the protection of human rights**

The Republic of Kazakhstan, as a member of the global community, recognizes human rights and, consequently, implements the norms of international law. Article 4 of the Constitution states the following:

*"1. The provisions of the Constitution, the laws corresponding to it, other regulatory and legal acts, international agreements and other commitments of the Republic, as well as regulatory resolutions of the Constitutional Council and the Supreme Court of the Republic, shall be the functioning law in the Republic of Kazakhstan.*

*2. The Constitution shall have the highest juridical force and direct effect on the entire territory of the Republic.*

*3. International agreements ratified by the Republic have primacy over its laws. Republic legislation determines the procedure and conditions of operation of international agreements in the Republic of Kazakhstan, to which Kazakhstan is a party.*

*4. All laws and international agreements where the Republic is a party shall be published. Official publication of regulatory and legal acts, dealing with the rights, freedoms, and responsibilities of citizens shall be the necessary condition for their application".* (The Constitution of the Republic of Kazakhstan, 1995).

Within the almost 30 years of its sovereignty, the country has been committed to the principles of international law. This is made evident by the high number of international documents on the protecting of human rights it signed and ratified. The fundamental basis for respecting and protecting human rights is the Universal Declaration of Human Rights which provides for the protection of its catalogue of human rights, which includes the right to education. Article 26 of the Universal Declaration of Human Rights promulgates that everyone shall have the right to education.

The right to education has been displayed in international documents such as the Convention on the Rights of the Child, the UNESCO Convention against Discrimination in Education, the International Covenant on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of Persons with Disabilities and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. One of the first treaties concerning human rights that have been adopted and ratified by the Republic of Kazakhstan was the Convention on the Rights of the Child. The country's first president signed the Convention in 1994 in New York and it was ratified with the president's decree on August 28<sup>th</sup> 1999. The document is focal because it is committed to protecting the rights of every human being below the age of eighteen. The basic principles of the international instrument are the equal rights of all children to life, development, protection and freedom from discrimination. To wit, Article 29 of the Convention states the following:

*"(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;*

*(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;*

*(c) The development of respect for the child's parents, their own cultural identity, language and values, for the national importance of the country in which the child is living, the country from which they may originate, and for civilizations different from their own;*

*(d) The preparation of the Child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;*

*(e) The development of respect for the natural environment."* (The Convention on the Rights of the Child).

Adherence to the fulfillment of the convention's provisions has started many positive changes in the country, such as the development of inclusive education, for instance, and thereby the protection of the right to education of all students regardless of any challenges they may have. One of the severe difficulties that deprive people of education of any type is discrimination based on race, color, religion, gender, disability, and marital status. To prevent racial discrimination, the Republic of Kazakhstan has approved and ratified the International Convention on the Elimination of All Forms of Racial Discrimination. The International Covenant on the Elimination of All Forms of Racial Discrimination urges states not to racially discriminate when their citizens enjoy the right to education and training.

Besides, the Republic of Kazakhstan signed and upheld the Convention on the Elimination of All Forms of Discrimination against Women in order to eliminate all forms of discrimination against women since one of the reasons that do not allow exercising the right to education ultimately is gender discrimination. Discrimination based on gender represents a huge issue, and women are a vulnerable group. Also, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was signed and ratified in the country.

In addition to all of the above, Kazakhstan has signed the two universal Covenants: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The two documents are the central instruments that have been accepted by the majority of states worldwide. The International Covenant on Economic, Social and Cultural Rights (1966), together with the Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966), constitute the International Bill of Human Rights. Under the Universal Declaration of Human Rights, the Covenants recognize that *"... the ideal of free human beings, free from fear and want, can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights."* (The International Covenant on Economic, Social and Cultural Rights). The International Covenant on Civil and Political Rights, adopted by the UN General Assembly's resolution on December 16, 1966, has been ratified by the Republic of Kazakhstan. The ratification of this Covenant in 2005 signifies acceptance by the Republic of Kazakhstan of international legal obligations to respect human rights. Moreover, the Republic of Kazakhstan ratified an optional protocol to this

Covenant in 2009, which opened up the opportunity for citizens to apply for protection of violated rights to the UN treaty body – the UN Human Rights Committee.

### 3. Conclusion

The Republic of Kazakhstan has been actively working on the improvement of the situation of human rights. As it can be seen, the state has signed the most crucial documents on the protection of human rights. By adopting all these global treaties and documents on the protection of human rights, the state has chosen a responsible approach towards human rights.

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